

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Lexington County

R. Lawton McIntosh, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

TRAVIS J. WILLIAMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
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ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT.....	1
APPLICATION FOR POST-CONVICTION RELIEF	20
RETURN	25
AMENDED APPLICATION FOR POST-CONVICTION RELIEF	30
POST-CONVICTION RELIEF HEARING TRANSCRIPT	33
ORDER OF DISMISSAL	121
INDICTMENTS	141

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON) 11TH JUDICIAL CIRCUIT

THE STATE) TRANSCRIPT OF RECORD
-VS-) 06-GS-32-3275
TRAVIS JUSTIN WILLIAMS,)
DEFENDANT .)

APRIL 30, 2007

LEXINGTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE WILLIAMS P. KEESLEY, JUDGE

A P P E A R A N C E S:

LAWRENCE G. WEDEKIND, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

NATHANIEL ROBERSON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

SHARON L. VIZER-HANKS
CIRCUIT COURT REPORTER

I N D E X

PAGE

GUILTY PLEA HEARING

---3

CERTIFICATE OF REPORTER

--19

NO EXHIBITS WERE INTRODUCED

Monday, April 30, 2007

THE CLERK: Indictment 2006-GS-32-3275, The State
vs. Travis Justin Williams, indicted for criminal sexual
conduct with a minor 2nd degree. He is pleading as charged.
The indictment has been true billed. He is represented by
Mr. Roberson.

Raise your right hand, please.

TRAVIS JUSTIN WILLIAMS, after having been duly
sworn, testified as follows:

THE COURT: Are you Travis Justin Williams, sir?

THE DEFENDANT: Yes, sir

THE COURT: This indictment charges in Lexington
County on or about July the 11th, 2006, you committed sexual
battery upon or with the body of a minor named in the
indictment who was between the ages of 11 and 14. It's
alleged that you had sexual intercourse with her without her
consent in violation of statutes cited in the indictment.

Upon your arraignment on this charge, it appears
that you wish to enter a plea of guilty to criminal sexual
conduct with a minor in the 2nd degree; is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Roberson, have you fully explained
to your client the nature and elements of the offense, the
possible punishment and his constitutional rights, including
trial by jury?

1 MR. ROBERSON: Yes, I have, Your Honor.

2 THE COURT: You're satisfied there's a factual basis
3 for the plea?

4 MR. ROBERSON: Yes, sir.

5 THE COURT: You agree with his decision?

6 MR. ROBERSON: Yes, sir.

7 THE COURT: Mr. Williams, today are you under the
8 influence of any medicine, alcohol, drug or anything that
9 affects your thinking?

10 THE DEFENDANT: No, sir.

11 THE COURT: Do you have physical or mental problems
12 affecting your thinking today?

13 THE DEFENDANT: No, sir.

14 THE COURT: You're clear headed and you know what
15 you are doing?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: When you plead guilty you give up very
18 important rights, including your right to remain silent and
19 your right to a jury trial; do you know that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: If you wanted a jury trial you would be
22 presumed innocent. The State has to prove you guilty to all
23 12 jurors beyond a reasonable doubt in order for you to be
24 convicted; do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: In a jury trial setting you have the
2 right to confront the witnesses against you, which means you
3 get to see, hear and have your lawyer cross-examine every
4 witness who testifies against you; do you understand?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: In a jury trial, you do not have to
7 offer any evidence. You may, if you wish. And if you wish to
8 testify yourself you are permitted to do that but no one can
9 compel you to testify. And if you choose not to testify the
10 trial judge will tell the jury that the jury cannot hold your
11 silence against you in any way at all; do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: If you plead guilty you give up all
14 those rights. You give up any defenses you may have, you give
15 up any challenges to the evidence and you admit that the
16 charge is true; do you understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you want a jury trial?

19 THE DEFENDANT: No, sir.

20 THE COURT: Listen to the solicitor, please.

21 MR. WEDEKIND: Yes, sir. Before the Court is
22 Mr. Travis Williams. He was originally charged with 2 counts
23 of criminal sexual conduct with a minor in the 2nd degree.

24 In exchange for this plea the State is allowing him
25 to plead to 1 count of criminal sexual conduct with a minor

1 2nd degree, the age of the individual being greater than 14
2 but less than 16.

3 This is a most serious offense and it is an
4 85-percent offense, which would require a mandatory sex
5 offender registration.

6 In exchange for the plea we will nolle prosequi the
7 other remaining count. The one specifically that we are going
8 forward on is the events that occurred on July the 11th, 2006
9 at [REDACTED] [REDACTED] in Swansea here in Lexington
10 County.

11 Do you want the facts, sir?

12 THE COURT: Yes, sir.

13 MR. WEDEKIND: It started off on the morning of July
14 11th in the early hours. Basically, the victim in the matter,
15 Ms. [REDACTED] was cohabitating -- or she was living
16 with her mother and her 2 sisters under the roof at [REDACTED]
17 [REDACTED] [REDACTED]

18 She said that she was asleep in her bed. Earlier
19 that night Mr. Williams had come in and got her 2 siblings;
20 [REDACTED] who was age 11, and [REDACTED] who was age 4, and removed
21 them and put them at the foot of the parents' bed, which is
22 her mother's, Crystal Hoover.

23 And so the children that were occupying the same
24 room -- and I'll pass up to the Court a photograph. This is
25 the bedroom where the children were. And the 2 younger ones

1 were in the colorful bed, and [REDACTED] was in the one that
2 sort of has a Zebra-like pattern to the mattress cover.

3 She said she was alone in that room and sometime
4 after midnight Travis came in wearing a t-shirt and 2 sets of
5 underwear, a pair of boxer shorts and pair of jockey briefs
6 underneath. She says that he then told her to be quiet, that
7 if she made any noise he would kill her. And that he removed
8 his underwear, kept his t-shirt on, engaged in vaginal sex
9 with her. Just before he ejaculated he removed himself from
10 her vagina, ejaculated onto her abdomen and leg and left semen
11 deposits on the mattress.

12 Apparently, there was an awakening by Crystal
13 Hoover, the mother of [REDACTED] and she awoke to find Travis
14 missing from her bed. And she didn't know where he was so she
15 called out his name. That led to a panic on the part of Mr.
16 Travis Williams, who then quickly jumped up, put on his boxer
17 briefs, forgot about his jockey shorts, which were left at the
18 foot of the children's bed.

19 And I'll show to the Court this photograph which is
20 an extra large pair of men's underwear that was found at the
21 foot of the children's bed.

22 At that point, she says he ran to the back door and
23 acted as if he had been outside coming in to prepare for a
24 fishing trip. She says that he then convinced the mother or
25 told the mother that he was going fishing, and he departed on

1 this fishing trip with another male individual who was living
2 in the trailer.

3 The mother then became suspicious and confronted the
4 daughter, [REDACTED] and asked her what had occurred. And she
5 said that Travis had come in and had sex with her not only on
6 that particular night but also on June 28th, a couple weeks
7 beforehand. He had taken her virginity when he came in and
8 raped her while the 2 siblings were put into the bathroom and
9 the mother was off on a shopping trip. That left him alone
10 with the 3 girls in which he took advantage on the June 28th
11 event.

12 There was blood on the bed linens as a result of
13 that, and apparently he blamed it on a dog being in heat and
14 then immediately put it into the laundry. That was the
15 earlier charge that we are nolle prosequing.

16 Once the second event occurred -- the mother had
17 found out about the July 11th event then the mother took all
18 the children and removed them from the trailer, went to the
19 birth father, Mr. Hoover, the father of all of the children,
20 took the children to there. They went to the Orangeburg
21 deputies but they determined that this was a Lexington County
22 case, called the Lexington County Sheriff's Office.

23 A deputy escorted them from the county line to the
24 Lexington Emergency Room whereupon a rape protocol kit was
25 done by a Nurse Gibbs at the hospital. They found some white

1 fluid in the child's vaginal vault. They also found a semen
2 encrusted pubic hair on her abdomen.

3 Then a search warrant was obtained, the sheets were
4 seized as well as that underwear in those photographs that you
5 see there.

6 I'll offer up to the Court a picture of [REDACTED]
7 that was taken at the emergency room showing her condition
8 that night.

9 She then gave a statement to Detective Baumgardener
10 detailing the events that I just replayed to the Court. The
11 rape protocol kit was collected, taken and turned into
12 evidence, submitted to SLED.

13 The pubic hair came back as a 1 in 250,000 match to
14 being a mixture of the victim's body fluids on the hair as
15 well as the defendant's body fluids being on there.

16 Additionally, the sheets, when they were checked,
17 there was the presence of biological material on it. Cuttings
18 were made and there was a 17 quintillion D. N. A. match as to
19 being Mr. Travis Williams as the person who left that semen
20 deposit on the mattress covers of the child's bed depicted
21 that you see depicted in that earlier photograph.

22 And that would pretty much, I think, summarize the
23 events that night, sir.

24 THE COURT: All right. Mr. Williams, you admit
25 you're guilty to this charge?

1 THE DEFENDANT: Yes.

2 THE COURT: Has anyone forced you, threatened you,
3 coerced you in any way to get you to plead against your will?

4 THE DEFENDANT: No, sir.

5 THE COURT: Any plea bargains the State might have
6 made with you, including agreements to drop charges, reduce
7 charges, recommend sentences, anything like that they have to
8 tell me about on the record in open court or you lose whatever
9 they have not told me about; you understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Mr. Roberson, are all the plea
12 negotiations on the record?

13 MR. ROBERSON: That's it, Your Honor.

14 THE COURT: So other than what's been placed on the
15 record, Mr. Williams, has anyone promised you anything or
16 offered you any hope of reward to get you to pled guilty?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you fully satisfied with your
19 attorney?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Is there anything else you want your
22 lawyer to do on your case that he has not done for you, other
23 than speak for you?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are there any witnesses you need him to

1 talk to, any investigation he needs to do, anything at all
2 that he has not done for you?

3 THE DEFENDANT: No, sir.

4 THE COURT: Have you had enough time to meet with
5 him and discuss your cases with him so that he can represent
6 you properly?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Had you had enough time to make up your
9 own mind about all this?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you have complaints against the law
12 enforcement officials or anybody who has dealt with your case?

13 THE DEFENDANT: No, sir.

14 THE COURT: Criminal sexual conduct with a minor in
15 the 2nd degree is a felony. It carries up to 20 years in
16 prison as possible punishment; do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: It's classified by the legislature and
19 what's commonly called truth in sentencing. Those things are
20 technically called no-parole offenses. What that means is
21 that you would have to serve at least 85 percent of the time
22 day-for-day before you could possibly be released from prison;
23 do you understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: That's no guarantee you get out in 85

1 percent. That's the least time you can; do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: When you do come out on community
4 supervision -- when you do come out of prison you will
5 automatically come out on a period of community supervision.

6 Folks, please don't have so many conversations in
7 the courtroom. It's real hard for me to hear him, and I need
8 to hear him.

9 When you come out of prison you're automatically
10 going to come out on a period of community supervision. If
11 you violate the terms of the community supervision you can be
12 required to do a year in prison just for violating community
13 supervision and then you start another period.

14 And the way that law is written you can wind up
15 doing double the amount of the original sentence if you
16 continue to mess up each time you get out on community
17 supervision; do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: The legislature has also classified this
20 under what's commonly called 2 strikes you're out and 3
21 strikes you're out. What that technically is called is a most
22 serious offense. It is a 2 strikes strike. If you get the
23 right combination of strikes you have to do life in prison
24 without the possibility of parole; do you understand?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You'll have to register for the rest of
2 your life as a sex offender if you plead guilty to this; you
3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: If you fail to register or keep your
6 registration current you can be prosecuted for the separate
7 offense of failing to register as a sex offender; do you
8 understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You'll have to provide a D. N. A. sample
11 and your D. N. A. profile will be put in a central computer
12 registry. They'll keep it on file like fingerprints so if
13 they have a crime scene anywhere with D. N. A. they run it
14 through the computers. If it matches yours they are coming to
15 look for you; do you understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Have you understood everything I've been
18 over with you now?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Are you certain you want to give up your
21 rights and enter this plea of guilty?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: That's your own decision made of your
24 own free will?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And you're pleading guilty because you
2 are, in fact, guilty of the charge?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Williams has made a free, knowing,
5 voluntary and intelligent decision to waive his rights and
6 plead guilty. He's done so upon the advice of counsel with
7 whom he's fully satisfied. There's a factual basis for his
8 plea.

9 Anyone from the victim's family or the victim
10 herself wish to be heard?

11 If they change their mind I'll hear them later.

12 MR. WEDEKIND: Yes, sir. They all decline, sir.

13 THE COURT: Okay. All right, then, Mr. Roberson.
14 We're to you.

15 MR. ROBERSON: May it please the Court?

16 THE COURT: Sure.

17 MR. ROBERSON: Your Honor, Travis was born and
18 raised in between Lexington County and Orangeburg County. He
19 attended school at the North High School in North, South
20 Carolina. He stopped at the 9th grade to help his
21 single-parent mother raise his other 3 siblings.

22 He started working immediately with a fellow named
23 Carol Williams learning to frame houses, and I think he did
24 that for like 6 years. He left there and worked at Gregory
25 Electric for awhile, then he left. When he was arrested on

1 this particular incident he was working with Mars Tech where
2 they install underground cables.

3 Your Honor, he's here with his stepmother, sister --
4 2 sisters, niece and the mother of the victim. Your Honor,
5 he's the father of a son who is 4 years old today.

6 Your Honor, I have gone to great pain to try and
7 mitigate this situation. I've explained to my client in
8 detail the affects of the law, what he's accused of and what
9 he's pled guilty to.

10 I believe this family has suffered some serious
11 divisions because of this. They have struggled to try and
12 find a reason to continue to be family and go forward. Any
13 attempt on my part would only aggravate the situation for
14 which I think they have come to a conclusion that they are
15 going to try to repair and go forward.

16 Your Honor, my client has no criminal record, as I
17 understand it. The other thing that he's been so reluctant
18 for me to talk to the Court about but I feel compelled to say
19 this because during this period of time and shortly before he
20 had began to experiment with drugs. This is not an excuse.
21 It is merely an explanation for what appears to be conduct
22 that he has not done before and there's no reason to believe
23 that he has done any such thing since that time.

24 And I believe the investigations would reveal that
25 he's not done this before and that this is the only person

1 within his period of influence for which he had this kind of
2 contact with.

3 Your Honor, I know that the Court has to be firm and
4 certain in its disposition of this case. Travis is a young
5 man. He has a life ahead of him. He has a son that he can
6 come back to, and he ought to be in a position to make some
7 contribution toward his life.

8 I'm simply going to ask the Court under the
9 circumstances to be as lenient and as compassionate as you can
10 under the circumstances.

11 Your Honor, I think some of his family members may
12 want to say something.

13 THE COURT: I'd be happy to hear from anyone. They
14 just have to state their name for the record because the court
15 reporter has to take down what they say.

16 FAMILY MEMBER: I'm his step mom, and I can say --

17 THE COURT: I need your name, ma'am.

18 FAMILY MEMBER: My name is Sara Williams. I am his
19 step mom, and I have to say for 26 years that I have helped
20 raise this boy. He is a good boy. And his father is dying
21 with cancer and it's kind of hard on him and this one.

22 THE COURT: Anything else?

23 (There was no response.)

24 THE COURT: Thank you, ma'am.

25 Mr. Williams, do you want to say anything?

1 THE DEFENDANT: Your Honor, that I'm just sorry for
2 what I done.

3 THE COURT: Is that it? Anything else?

4 THE DEFENDANT: Yeah, and you won't never see --
5 this is the last time you'll ever hear anything about this.
6 And I just want you to have lenience on me so I can get back
7 to my son.

8 THE COURT: You are how old, sir?

9 THE DEFENDANT: 26.

10 THE COURT: How old is she?

11 MR. WEDEKIND: She was 14 at the time, sir, and 2
12 months.

13 THE COURT: All right. Folks, I need you all to
14 have a seat.

15 Cuff him. Cuff him.

16 Mr. Williams, I accept your plea of guilty. Your
17 sentence is that you be committed to the South Carolina
18 Department of Corrections for 20 years, plus costs and
19 assessments. Give him credit for jail time pursuant to
20 Section 24-13-40. That will be calculated and applied by the
21 Department of Corrections.

22 Restitution is waived. I've indicated on here that
23 this is a most serious offense under the statute. You have to
24 provide your D. N. A. sample, register as a sex offender and
25 pay your court costs at a rate set by probation, pardon and

1 parole while you are on community supervision.

2 You understand your sentence?

3 THE DEFENDANT: Yeah.

4 THE COURT: Sir?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: If you wish to appeal anything from this
7 proceeding you must do so in writing. It must be done
8 promptly and you have to notify Mr. Roberson to do so; you
9 understand?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Good luck.

12 (WHEREUPON, the hearing was concluded.)

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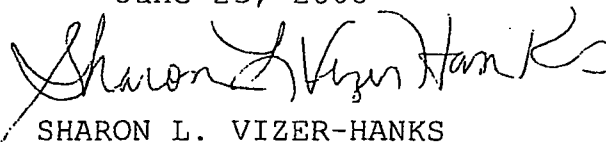
25

C E R T I F I C A T E

I, Sharon L. Vizer-Hanks, Official Court Reporter
for the 11th Judicial Circuit of the State of South Carolina,
do hereby certify that the foregoing is a true, accurate and
complete transcript of record of all the proceedings had and
the evidence introduced in the hearing of the captioned case
in Circuit Court on the 30th day of April 2007.

I do further certify that I am neither of kin,
counsel nor have an interest to any party hereto.

June 23, 2008



SHARON L. VIZER-HANKS

CIRCUIT COURT REPORTER

DEG

2008CP3200904 SC

FILED

STATE OF SOUTH CAROLINA

2008 FEB 27 In the Court of Common Pleas

County of Lexington

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

Travis J. Williams #321552
Full name and prison number (if any) of Applicant,

vs.
State of South Carolina
Name of Respondent.

State of South Carolina

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS — READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention Lieber Correctional Inst. P.O. Box 205
Edgeville South Carolina 29472
2. Name and location of Court which imposed sentence Lexington County
Courthouse General Session
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
(a) # 2006-GS-32-3276
(b) # 2006-GS-32-3275
(c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
(a) April 30, 2007
(b) 20 yrs
(c) _____

5. Check whether a finding of guilty was made

- (a) after a plea of guilty ✓
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. _____
 ii. _____
 iii. _____

(b) the result in each such Court to which you appealed:

- i. _____
 ii. _____
 iii. _____

(c) the date of each such result:

- i. _____
 ii. _____
 iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
 ii. _____
 iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) I was not informed that I could appeal
 (b) Attorney never informed me
 (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
 (b) Involuntary Guilty Plea
 (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Coerced into Pleading Guilty
 (b) Counsel failed to Investigate
 (c) _____

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO
- (d) any other petitions, motions or applications in this or any other Court?

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
 ii. _____
 iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
 ii. _____
 iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) _____
 (b) _____
 (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
 (b) your trial, if any? _____
 (c) your sentencing? _____
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Nathaniel Roberson (Roberson Law Firm)
1708 Richland Street Columbia S.C. 29201

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Guilty Plea
 ii. Sentencing
 iii. _____

18. State clearly the relief you seek in filing this application.

A New Trial

19. Are you now under sentence from any other court that you have not challenged?

NO

2008CP3200904

STATE OF SOUTH CAROLINA

County of Lexington

VERIFICATION

I, Travis J. Williams, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Travis Williams

SWORN to and subscribed before me this 20

day of Feb, 1908

[Signature]
Notary Public (L.S.)

My Commission Expires: 8/20/2016

FILED
2008 FEB 27 A 8:42
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

Travis Williams
Applicant

SWORN or affirmed to and subscribed before me this

20 day of Feb, 1908

[Signature]
Notary Public

My Commission Expires: 8/20/2016

FILED
2008 FEB 27 A 8:42
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF LEXINGTON)

2008-CP-32-904

Travis J. Williams, # 321552,)
)
) Applicant,)
)
) v. RETURN
)
 State of South Carolina,)
)
) Respondent.)

Respondent, making its Return to the application for post conviction relief (PCR) filed February 27, 2008, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. Applicant was indicted at the October 2006 term of the Lexington County Grand Jury for two counts of criminal sexual conduct with minor- 2nd degree, child 11-14 years of age (06-GS-32-3275, -3276). Nathaniel Roberson, Esquire, represented him. On April 30, 2007, Applicant pled guilty to one count of criminal sexual conduct- 2nd degree. He was sentenced by the Honorable William P. Keesley to confinement for twenty (20) years. Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein by reference are the records of the Lexington County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the plea transcript. Any of the above not so attached will be forwarded upon receipt.

II.

In his current application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel; and
2. Involuntary guilty plea.

III.

Respondent interprets each of Applicant's allegations to be claims that he received ineffective assistance of counsel. In a post-conviction relief action, Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, Id.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, Id. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under

professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, *citing* Strickland. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. *See* Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

In his second allegation, Applicant alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, *supra*;

Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The State submits Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Respondent submits that Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

V.

The State therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the State moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

VII.

WHEREFORE, having made its Return, the State requests that a hearing be held.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

DANIEL E. GRIGG
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

May 6, 2008.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF LEXINGTON	)	FOR THE 11 TH JUDICIAL CIRCUIT
Travis J. Williams, #321552,	)	
	)	
Applicant,	)	2008-CP-32-00904
	)	
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

APPLICANT'S AMENDED APPLICATION
FOR POST-CONVICTION RELIEF

By and through his undersigned counsel, Applicant Travis J. Williams, hereby amends his Application for Post-Conviction Relief (hereinafter "Application"), answering Questions 9 and 10 of his Application, filed on or about February 27, 2008, as follows:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

Amended Response: Applicant's plea of guilty was in violation of the Constitution of the United States or of the Constitution or laws of the State of South Carolina insofar as Applicant's right to effective assistance of counsel, as protected by the Sixth and Fourteenth Amendments to the United States Constitution and the South Carolina Constitution art. I, § 14, was violated in the lower court and the resulting plea was involuntary and not knowingly and intelligently entered into.

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

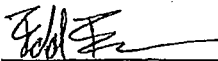
Amended response:

(a) Applicant's defense counsel ("Counsel") failed to adequately investigate Applicant's case;

(b) Counsel guaranteed to Applicant that he would not receive the maximum sentence;

- (c) Counsel advised Applicant that he was subject to the death penalty;
- (d) Counsel failed to advise Applicant that he could withdraw his plea prior to the court accepting the plea;
- (e) Counsel failed to discuss in good faith defenses available to Applicant;
- (f) Counsel advised Applicant that he would refuse to call a key witness that would recant her earlier statement to investigators and refute the accusation against Applicant;
- (g) Applicant's plea of guilty was not knowingly and intelligently entered, inasmuch as:
 - (i) Counsel failed to advise Applicant of his rights as a criminal case defendant;
 - (ii) Counsel affirmatively misstated the possible penalties for all of the charges he faced;
 - (iii) Counsel failed to advise Applicant as to how he might be sentenced at the conclusion of his plea hearing;
 - (vii) Counsel failed to advise Applicant that he could withdraw his plea prior to the court accepting the plea;
 - (viii) Counsel failed to discuss in good faith defenses available to Applicant;
 - (ix) Counsel advised Applicant that he would refuse to call a witness that would recant her earlier statement to investigators and would refute the accusation against Applicant;
 - (x) Applicant would not have pled guilty if he had the true facts before him; and
 - (xi) Applicant would have withdrawn his plea before the court accepted the plea if his counsel had advised him this was possible;
- (h) Counsel failed to properly explain Applicant's appellate rights to him;
- (i) Counsel failed to file a timely notice of appeal when directed to do so by Applicant.

Respectfully submitted,



Michael R. Jeffcoat
Bradd W. Bunce
MICHAEL R. JEFFCOAT,
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Facsimile 803-808-2240

ATTORNEY FOR THE APPLICANT

November 17, 2009
Lexington, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	___)	2008-CP-32-00904

TRAVIS J. WILLIAMS	)	
APPLICANT	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA	)	
RESPONDENT	___)	

February 3rd, 2010
Lexington, South Carolina

B E F O R E:

THE HONORABLE R. LAWTON MCINTOSH, JUDGE.

A P P E A R A N C E S:

A. WEST LEE, ASSISTANT ATTORNEY GENERAL
Attorney for the State

BRADD W. BUNCE, ESQ.
Attorney for the Applicant

CAROL M. THUEME, RPR
Official Court Reporter

I N D E X

WITNESSES:	PAGE
LISA WILLIAMS	
Direct Examination by Mr. Bunce	8
Cross-Examination by Mr. Lee	22
CRYSTAL HOOVER	
Direct Examination by Mr. Bunce	23
Cross-Examination by Mr. Lee	26
Redirect Examination by Mr. Bunce	28
TINA MITCHELL	
Direct Examination by Mr. Bunce	29
SARAH WILLIAMS	
Direct Examination by Mr. Bunce	32
Cross-Examination by Mr. Lee	36
TRAVIS WILLIAMS	
Direct Examination by Mr. Bunce	38
Cross-Examination by Mr. Lee	49
Redirect Examination by Mr. Bunce	
NATHANIEL ROBERSON	
Direct Examination by Mr. Lee	56
Cross-Examination by Mr. Bunce	73
Redirect Examination by Mr. Lee	83
CERTIFICATE OF REPORTER	88

EXHIBITS

Court's
Exhibit No. 1

Subpoena documents

55

1 THE COURT: Which matter is this?

2 MR. LEE: Your Honor, this is Travis Williams
3 versus the State of South Carolina.

4 Beg the Court's indulgence one second. I'll
5 give you some background.

6 THE COURT: Are you Mr. Jeffcoat?

7 MR. BUNCE: Your Honor, Bradd Bunce for
8 Mr. Jeffcoat. I'm Mr. Jeffcoat's associate. I've been
9 handling this file.

10 THE COURT: All right. Brad who?

11 MR. BUNCE: B-R-A-D-D. Bunce is B-U-N-C-E, Your
12 Honor.

13 THE COURT: Thank you, Mr. Bunce.

14 MR. LEE: May it please the Court.

15 THE COURT: Yes, sir.

16 MR. LEE: This is Travis Williams versus the
17 State of South Carolina, CP No. 2008-CP-32-904. It comes
18 to the Court by way of application for post-conviction
19 relief filed February 27th, 2008.

20 The applicant was indicted at the October 2006
21 term of the Lexington County Grand Jury for two counts of
22 criminal sexual conduct with a minor in the second degree,
23 the child being between the ages of 11 and 14. Those are
24 06-GS-32-3275 and 3276. Applicant was represented by
25 Mr. Nathaniel Roberson.

1 On April 30th, 2007, the applicant pled guilty
2 to one count of criminal sexual conduct in the second
3 degree. He was sentenced by the Honorable William P.
4 Keesley to confinement for a period of 20 years and the
5 applicant did not appeal his conviction or sentence.

6 In his current application for post-conviction
7 relief, the applicant alleges that he's being held in
8 custody unlawfully for the following reasons: Ineffective
9 assistance of counsel and involuntary guilty plea.

10 Specifically, the applicant alleges with
11 relation to ineffective assistance of counsel, that he was
12 not informed of his right to appeal and that counsel
13 failed to investigate.

14 And with regard to involuntary guilty plea, he
15 alleges that he was coerced into pleading guilty.

16 At this time I will turn it over to the
17 applicant's attorney, Mr. Bradd Bunce, to elaborate upon
18 his claims.

19 Thank you.

20 MR. BUNCE: Your Honor, there were additional
21 grounds and that was -- Mr. Williams has amended his
22 application for post-conviction relief. We served that on
23 the Attorney General back on November 20th of 2009.

24 MR. LEE: You're right. Your Honor, that's
25 true.

1 MR. BUNCE: I have, if I may, Your Honor, just
2 to cut and paste the specific factual allegations for your
3 reference --

4 THE COURT: Okay. If you would, give me -- for
5 the record, I have ineffective assistance of counsel, that
6 being his right to appeal was not explained to him or
7 given to him or perfected; involuntary guilty plea, that
8 he was coerced into pleading guilty.

9 What's the other ground or grounds that you're
10 asserting?

11 MR. BUNCE: Your Honor, those are set out here,
12 that Counsel failed to adequately investigate this case;
13 that Counsel guaranteed the applicant he would not receive
14 the maximum sentence; that Counsel advised the applicant
15 he was subject to the death penalty.

16 Counsel failed to advise the opportunity to
17 withdraw his plea prior to the Court accepting the plea.
18 Counsel failed to discuss the defenses available to the
19 applicant.

20 Counsel advised the applicant that he refused to
21 call a key witness who would recant her earlier statement
22 of investigators and refute the accusation against the
23 applicant, and that his plea of guilty was not knowingly
24 and intelligently entered, inasmuch as Counsel failed to
25 advise applicant of his rights as a criminal case

1 defendant; Counsel affirmatively misstated the possible
2 penalties for all the charges he's facing.

3 THE COURT: I got you. I just thought you were
4 just doing the facts, but you also set forth your grounds
5 on what you've given to me?

6 MR. BUNCE: Yes, Your Honor.

7 THE COURT: Thank you very much. You may
8 proceed.

9 MR. BUNCE: Your Honor, we'd call Lisa Williams.

10 Actually, before that, Your Honor, I have one
11 other matter.

12 THE COURT: Sure.

13 MR. BUNCE: My client wishes to amend his
14 application. He presented this to me this morning, Your
15 Honor. I haven't had a chance to review this fully, but
16 he wishes to assert issues regarding the constitutionality
17 of the statute under which he was sentenced, Your Honor.

18 I haven't had a chance to review this, but it
19 appears this is more of a habeas issue. But if these are
20 pure issues of law, is this something I could ask the
21 ability to brief this, amend the application and brief
22 this after testimony, Your Honor?

23 THE COURT: I'm not inclined to let him do so.

24 But go ahead. What's your position, Mr. Lee?

25 MR. LEE: Your Honor, the State would submit

1 that matters of law that aren't related to ineffective
2 assistance of counsel or involuntary guilty plea, as the
3 case may be, are more reserved for habeas.

4 The State would also submit that -- well, also
5 that it's not a PCR issue and that we were not alerted to
6 this amendment until just now, so we haven't had an
7 opportunity to prepare for it. As a result, we would just
8 object to the entry of any additional amended claims.

9 THE COURT: Mr. Bunce, I'm going to deny his
10 motion to do that, to amend at this stage. I think you've
11 well covered the various grounds, it's collaterally
12 attacking the sentence in this case and the plea, and I
13 think you can go ahead.

14 MR. BUNCE: We'd call Lisa Williams, Your Honor.

15 LISA WILLIAMS, after being duly sworn, testified
16 as follows:

17 THE CLERK: Have a seat and state your name for
18 the record.

19 THE WITNESS: Lisa Williams.

20 DIRECT EXAMINATION

21 BY MR. BUNCE:

22 Q Ms. Williams, are you related to Travis Williams?

23 A Yes, sir.

24 Q How are you related?

25 A That's my brother.

1 Q Now, at the time of the incident that led to this,
2 were you living in the same house as Travis?

3 A Yes, sir.

4 Q Who else was living there at the time?

5 A Myself; Travis; Keith Collins; William Collins;
6 Crystal Hoover; [REDACTED] William, Jr.; my son, Raymond
7 Chavis.

8 Q Is that all the adults?

9 A Yeah.

10 Q And there were a number of smaller children?

11 A Yes.

12 Q And these people that you've mentioned, William
13 Collins -- there's a William Keith Collins, Sr.; is that
14 correct?

15 A Yes.

16 Q Is that someone you were dating at the time?

17 A Yes.

18 Q And his son was William Collins, Jr.?

19 A Junior.

20 Q And then the alleged victim, [REDACTED] was
21 living there and her mother, Crystal Hoover?

22 A Yes.

23 Q Was Crystal in a relationship with Travis at that
24 time?

25 A Yes.

1 Q And then there was some other children living there?

2 A Yes.

3 Q Now, did you meet with Mr. Roberson, Travis'
4 attorney, at some point?

5 A Yes.

6 Q How many times did you meet with him?

7 A At least two or three times.

8 Q And that's before the day of the plea hearing?

9 A Yes.

10 Q And did you speak to him a number of other times on
11 the telephone?

12 A Yes, sir, on the phone.

13 Q Now, when was the -- before the plea hearing, when
14 was the last time you met with Mr. Roberson?

15 A The last time was the day before the final hearing.

16 Q What day of the week was that last meeting?

17 A It was on a Sunday. We went into his office.

18 Q Now, before that meeting on the eve of the trial, did
19 Travis ever tell you whether he was going to plead guilty?

20 A No.

21 Q He did not tell you --

22 A No.

23 Q -- or did he tell you what his plans were about
24 pleading guilty?

25 A Well, we were all a little bit concerned with what

1 was presented before us.

2 Q Did Travis tell you what he was going to do?

3 A No.

4 Q Did he ever say he was going to plead guilty?

5 A No.

6 Q Did he say he was not going to plead guilty?

7 A Yes, at one point, yeah.

8 Q All right. Did you ever -- before that last meeting,

9 did you ever hear Travis tell Mr. Roberson whether he was

10 going to plead guilty?

11 A No.

12 Q Now, at that meeting on Sunday -- that Sunday, why

13 were you meeting that particular day?

14 A To go in and talk with him about the trial the next

15 morning.

16 Q So there was a trial scheduled for the next morning,

17 on Monday?

18 A Uh-huh.

19 Q All right. And before that meeting -- this was not a

20 meeting to talk about -- as far as you knew, this was not

21 a meeting to talk about a plea hearing?

22 A No.

23 Q It was a meeting to talk about what was going to

24 happen at trial?

25 A Yes, sir.

1 Q Now, did you have an occasion to tell Mr. Roberson at
2 that meeting what you were prepared to testify about?

3 A Uh-huh.

4 Q What were you prepared to testify at his criminal
5 trial about?

6 A On Travis' behalf and all the things that went on.

7 THE COURT: Say that again. I can't hear you.

8 THE WITNESS: You can't hear me?

9 THE COURT: No, ma'am.

10 THE WITNESS: To talk about the things that went
11 on at, you know, with everything concerning the trial.

12 BY MR. BUNCE:

13 Q You were there the night of the alleged incident?

14 A Uh-huh.

15 Q And I believe the allegation was that Travis went
16 into 's room and basically raped her?

17 A Yes, sir.

18 Q And that he then came in -- he left the room, came in
19 pretending he had been outside; is that the allegation?

20 A Yes, sir.

21 Q But you were there that night. And what happened
22 that night? Did you hear him come in?

23 A Yes.

24 Q You heard a door?

25 A Uh-huh.

1 Q And what did you see then?

2 A I called his name like three times and he answered.
3 I heard the back door open, I called out his name three
4 times. By the third time he hollered "what?" I said,
5 "Where you at?" He said, "I was outside getting my
6 shoes," because him and my ex-fiancee at the time was
7 getting ready to go fishing. He came in through the back
8 door, the back door opened and that back door shut.

9 Q And when he walked in, was he wearing boxer shorts
10 and a T-shirt?

11 A No, no.

12 Q What was he wearing?

13 A He was fully dressed.

14 Q Now, did you tell Mr. Roberson about this?

15 A Uh-huh.

16 Q Okay. And did you hear -- who else was present at
17 that meeting with Mr. Roberson?

18 A William; Keith Collins, Junior and Senior; Crystal;
19 myself; and Travis; and Mr. Roberson.

20 Q Okay. Were you all present for the whole time, the
21 whole meeting?

22 A Yes.

23 Q You could have heard anything Mr. Roberson told
24 Travis at that meeting?

25 A Yes, sir.

1 Q Did you hear anyone else -- did you hear Crystal
2 Hoover tell Mr. Roberson anything at that meeting?

3 A Yes, sir, I did.

4 Q What did she say?

5 A She said that she would tell that she wiped his semen
6 on the child herself.

7 THE COURT: She did what?

8 THE WITNESS: She wiped --

9 BY MR. BUNCE:

10 Q Could you repeat yourself?

11 A -- wiped Travis's semen on the child herself.

12 Q So she was willing to testify that she framed Travis?

13 A That's what was said there.

14 Q What did Mr. Roberson say about that?

15 A He said, "Why would you go and do that? Why would a
16 mother go and say anything like that and try to convince
17 12 jurors that a mother would put semen on her 14-year-old
18 child?" and no, he wasn't going to do that.

19 Q He told Travis he was not going to call Crystal as a
20 witness?

21 A Yeah.

22 Q And were there some problems between Travis and
23 Crystal around the time of this incident, the alleged
24 incident?

25 A When it happened?

1 Q Yes, back when the accusations were made, were they
2 having some trouble?

3 A Uh-huh.

4 Q Now, during the time that Mr. Roberson was
5 representing Travis, did he ask you to do anything?

6 A Uh-huh.

7 Q What did he ask you to do?

8 A He asked me to talk to some of the witnesses because
9 there was a witness, try to get statements or maybe some
10 affidavits up, and try to get them back to him.

11 Q Now, he asked you to get affidavits?

12 A Uh-huh, get the statements from him to do that.

13 Q Did he explain to you what an affidavit is?

14 A Unh-unh.

15 Q Did he tell you how to take an affidavit?

16 THE COURT: Just one second. If you would --
17 see this lady here? When you say, "uh-huh, unh-unh," she
18 can't tell what you're saying.

19 THE WITNESS: Okay.

20 THE COURT: Give us a verbal response. Okay?

21 THE WITNESS: Okay. Sorry about that.

22 BY MR. BUNCE:

23 Q Did he tell you what an affidavit is?

24 A No, sir.

25 Q Explain how to get one?

1 A No, sir.

2 Q Now, you did -- did you find some witnesses to this?

3 A Yes.

4 Q Okay. What witnesses did you find?

5 A The caretaker of the park we were living in at the
6 time, the mobile home park.

7 Q What was that witness?

8 A She was the one -- I woke up that morning, I walked
9 over to speak with her to see what was going on because
10 Mr. Williams was no longer in the house and I didn't know,
11 and then my -- the girl that lived in front of us, in her
12 single-wide, we stayed in a double-wide.

13 Q So just to clarify, the witness across the street,
14 did she know anything about the incident that she was
15 going to testify to?

16 A Afterwards, yes. Because she --

17 Q What was her involvement?

18 A Because she said she woke up to the barking of her
19 dog and looked outside and he was outside at the time this
20 was supposed to have been happening.

21 Q That was the lady across the street?

22 A Uh-huh, right in front of us.

23 Q And she's across the road or the neighbor next door?

24 A No, right in front of us. Our mobile home was here
25 and hers was right there. We could walk out the back door

1 to her front.

2 Q That's your neighbor?

3 A Yes.

4 Q You found this neighbor and did you provide
5 information about that neighbor to Mr. Roberson?

6 A Yes, sir.

7 Q Now, were there any other witnesses that you
8 identified to Mr. Roberson that might be helpful to
9 Travis' case?

10 A Yes.

11 Q Who would that be?

12 A Jessica. My daughter, Jessica Williams.

13 Q What did Jessica know about?

14 A This was things after she said she spoke with the
15 victim herself, things that were said. My stepmother,
16 Sarah Williams; my mom, Carol Williams. There's quite a
17 few of them.

18 Q Okay. Were there any witnesses that you talked to
19 that were going to testify about [REDACTED] saying it
20 didn't happen?

21 A Yes, sir.

22 Q Who was that?

23 A Tina Mitchell.

24 Q Tina Mitchell. Okay. And you talked to Tina and
25 then you provided -- did you provide her information to

1 Mr. Roberson?

2 A Yes.

3 Q Anyone else? Ashley?

4 A Ashley, yes.

5 Q What was Ashley's involvement?

6 A She's my best friend's daughter.

7 Q And did you talk to Ashley?

8 A Yes, sir.

9 Q What did Ashley tell you?

10 A She said she had spoke with [REDACTED] and her
11 grandmother, Daphne, at Dollar General in Orangeburg one
12 day just a few days after the incident had happened and
13 she pulled [REDACTED] to the side and [REDACTED] told her she
14 had to keep her mouth shut because of her grandmother,
15 that none of it ever occurred.

16 Q Did you pass that information along about Ashley
17 Walker, did you pass that information along to
18 Mr. Roberson?

19 A Yes.

20 Q Did you give the phone number to Mr. Roberson on how
21 to contact her?

22 A No, no.

23 Q Did you give the name?

24 A Yes.

25 Q And a way of contacting her?

1 A No. I mean, because he asked me to do it, so I was
2 doing what I could do.

3 Q But he knew about this witness?

4 A Yes.

5 Q Now, was -- Mr. Roberson became involved with Travis'
6 case when?

7 A I guess the first day when they brought him up to set
8 his bond. The first person he met with was my stepmother,
9 Sarah Williams.

10 Q Now, was Mr. Roberson's attitude the same throughout
11 the case?

12 A No, sir.

13 Q Did it change at some point?

14 A Yes, sir.

15 Q When did it change?

16 A After he found out we couldn't come up with the
17 amount of money that he asked for.

18 Q And how did it change then?

19 A He just got to the point where it was no more
20 questions, no more -- I don't know or -- I don't know, it
21 was just different.

22 Q Had you been in telephone contact with him before
23 that?

24 A Yes, sir.

25 Q Did the amount -- the frequency of telephone contact

1 go up or down after he was appointed?

2 A Down.

3 Q Now, this last meeting on the eve of the trial, did
4 you hear Mr. Roberson tell Travis anything about the
5 possible sentence he would receive?

6 A Uh-huh. Yes, sir.

7 Q What did Mr. Roberson say?

8 A He said that the DNA was found and that if he didn't
9 plead guilty, that if we took a jury, that he was facing
10 60 years to death penalty.

11 Q Did he say anything else about the potential
12 sentence?

13 A No.

14 Q And you were present the entire time Travis was
15 meeting with him?

16 A Yes, sir.

17 Q Now, did he explain how the proceedings -- well, did
18 he recommend that Travis plead guilty then?

19 A Yes, sir.

20 Q And then the day of the plea hearing, the next day,
21 which was to have been the day of the trial, correct?

22 A Yes, sir.

23 Q Did you all meet with Mr. Roberson then?

24 A Yes, sir.

25 Q Were you present at that meeting the whole time?

1 A Pretty much.

2 Q Was there a short period when you weren't there?

3 A Yes.

4 Q And what was going on during that period?

5 A When I went to the restroom.

6 Q But, other than that, you heard the rest of the
7 conversation?

8 A Uh-huh.

9 Q Did he talk about whether there was a plea agreement?

10 A Yes, he spoke with the judge that same morning.

11 Q Mr. Roberson told you all something about the plea?

12 A Yes, sir.

13 Q What did he say?

14 A He said that it would be a total different judge and
15 he was going to see if he could get a plea bargain. The
16 plea bargain was zero to 20, but Travis wouldn't get no
17 more than ten years because he would only be charged with
18 one offense.

19 Q Did he say anything about how likely it was that
20 Travis would get that 12 years?

21 A He said that's what it would be.

22 Q And who else -- was there anyone else present the day
23 of that plea hearing?

24 A Yes, sir.

25 Q Who was present, listening to that conversation?

1 A My stepmother, Sarah Williams; my sister, Virginia
2 Williams; Crystal Hoover; and Travis; and Mr. Roberson.

3 Q At any point during either of those two meetings, did
4 you hear Mr. Roberson explain how the plea proceeding was
5 going to happen?

6 A No.

7 Q Did you hear Mr. Roberson tell Travis that Travis
8 could ask the Court to appoint another lawyer at any point
9 during the proceedings?

10 A No, sir.

11 Q Did Mr. Roberson tell Travis that he could stop the
12 plea hearing at any time if what he heard wasn't correct?

13 A I didn't hear that, no, sir.

14 MR. BUNCE: That's all the questions I have for
15 you this morning. Please answer the State's questions.

16 CROSS-EXAMINATION

17 BY MR. LEE:

18 Q Ms. Williams, I'm sorry, I didn't hear, did you say
19 you're the applicant's sister; is that correct?

20 A No.

21 Q Mr. Williams' sister?

22 A Yes.

23 MR. LEE: Okay. That's all my questions for
24 this witness, Your Honor.

25 THE COURT: You may step down.

1 THE WITNESS: Thank you, sir.

2 MR. BUNCE: We would call Crystal Hoover.

3 CRYSTAL HOOVER, after being duly sworn,
4 testified as follows:

5 THE CLERK: Please have a seat and state your
6 name for the record.

7 THE WITNESS: Crystal Hoover.

8 DIRECT EXAMINATION

9 BY MR. BUNCE:

10 Q Ms. Hoover, the victim alleged in this case is your
11 daughter, is that correct, [REDACTED]

12 A Yes.

13 Q All right. At the time of the accusations, you were
14 both living with Travis; is that correct?

15 A Yes.

16 Q And are you married right now?

17 A Yes.

18 Q Were you married at the time?

19 A Yes.

20 Q You were married to someone else?

21 A Yes.

22 Q All right. After these accusations were made, did
23 you have problems believing the accusations?

24 A Yes.

25 Q And you stayed with Travis; is that correct?

- 1 A Yes.
- 2 Q And did you meet with his attorney, Mr. Roberson?
- 3 A Yes.
- 4 Q And when did you meet with Mr. Roberson?
- 5 A A number of times.
- 6 Q Okay. Did you meet with Mr. Roberson on the eve of
- 7 the planned trial?
- 8 A Yes.
- 9 Q And were you there for the plea hearing the next day?
- 10 A Yes.
- 11 Q Before April 2007, when the trial was to be, did you
- 12 hear Travis tell his attorney anything about a plea deal?
- 13 A No.
- 14 Q Did you have occasion to tell Mr. Roberson the names
- 15 of any potential witnesses along the way?
- 16 A Yes.
- 17 Q Who did you tell him about?
- 18 A The neighbor that was in the trailer park.
- 19 Q Okay. When did you tell Mr. Roberson that?
- 20 A At the second meeting.
- 21 Q And that's the witness that could have potentially
- 22 provided an alibi?
- 23 A Yes.
- 24 Q And did you speak to that witness?
- 25 A Before or after?

1 Q Before you told Mr. Roberson?

2 A Yes, I spoke to her.

3 Q And what did she tell you?

4 A She said that she heard her dogs barking and then
5 when she looked out, that Travis was outside.

6 Q Did she describe what he was wearing at the time?
7 Did you ask?

8 A She just said pants and a shirt, she didn't say what.

9 Q Now, did you tell Mr. Roberson you'd be willing to
10 testify?

11 A Yes.

12 Q And what did you tell him you'd be willing to testify
13 to?

14 A That I had wiped the semen on [REDACTED]

15 Q And did Mr. Roberson respond to that?

16 A Yes, he said that he would not put me on the stand
17 and let me say that.

18 Q So he told you that you weren't going to get to
19 testify at the trial?

20 A Yes.

21 Q Did you hear Mr. Roberson tell Mr. Williams what the
22 potential sentences were if he went to trial on the two
23 charges if he was found guilty?

24 A No.

25 Q Did you hear Mr. Roberson tell Mr. Williams if there

1 was a deal offered by the Solicitor?

2 A No.

3 Q A plea deal?

4 A The plea deal, yeah, from zero to 20, and he told him
5 he would only get -- wouldn't get but ten.

6 Q Did he say whether it was likely that he would get
7 that?

8 A The ten?

9 Q Yes.

10 A Yes, he said it was very likely he would get ten.

11 Q Ms. Hoover, was your written statement to the police,
12 was it accurate?

13 A It -- yeah.

14 Q The one that you gave initially, was it correct?

15 A Yes.

16 MR. BUNCE: All right. That's all the questions
17 I have.

18 THE COURT: Just one second. Hold on there,
19 ma'am. Please remain seated.

20 THE WITNESS: I'm sorry.

21 THE COURT: Mr. Lee.

22 CROSS-EXAMINATION

23 BY MR. LEE:

24 Q Mrs. Hoover, I believe you said that your daughter
25 was the victim, correct?

1 A Yes.

2 Q And didn't you, in fact, call the police -- weren't
3 you the one that called the police on the night of the
4 offense?

5 A Yes.

6 Q Didn't you go to the Orangeburg Sheriff's Office --
7 Police Station, or whatever, where, in fact, you were told
8 that it wasn't within their jurisdiction, drove all the
9 way back over to Lexington to file the report, and then
10 took your child to the hospital; is that all correct?

11 A Yes.

12 Q And so you went through all that for something that
13 wasn't true; is that what you're saying now?

14 A Yes.

15 Q You talked about an alibi witness that gave -- that
16 would supposedly say that he was outside, that she knew
17 this because her dogs were barking at the time of the
18 occurrence. I guess I'm wondering how you can pinpoint
19 the time of the occurrence versus the time the
20 young-lady/old-lady, I'm not sure, saw him outside?

21 A You mean how can I pinpoint the time?

22 Q Yeah. How are you sure that when she saw him was the
23 same time that the alleged occurrence was supposed to have
24 happened?

25 A Because I woke up because of Travis, but Travis was

1 outside.

2 Q And you happened to know exactly what time both of
3 these things were happening?

4 A Yes.

5 Q Okay. And you gave a statement to the police,
6 correct?

7 A Yes.

8 Q Did that happen the night of the occurrence?

9 A No.

10 Q Was that statement true?

11 A Yes.

12 MR. LEE: Beg the Court's indulgence one second,
13 Your Honor.

14 THE COURT: Yes.

15 BY MR. LEE:

16 Q Did you say in that statement that the sperm that was
17 found inside the child's vagina was placed on her by
18 yourself; did you say that in the statement?

19 A I don't think I did.

20 MR. LEE: Okay. No further questions for this
21 witness, Your Honor. Thank you.

22 THE COURT: Any questions?

23 MR. BUNCE: I have one additional question.

24 REDIRECT EXAMINATION

25 BY MR. BUNCE:

1 Q Ms. Hoover, at any point, did you talk to [REDACTED] about
2 whether this was -- whether accusation was true?

3 A Yes, I did.

4 Q What did [REDACTED] say?

5 A She said it didn't happen.

6 Q And this was before Travis was sent to prison?

7 A Yes.

8 MR. BUNCE: Thank you.

9 THE WITNESS: Can I go?

10 THE COURT: Yes, ma'am.

11 Any further witnesses?

12 MR. BUNCE: I do, Your Honor. I would call Tina
13 Mitchell.

14 TINA MITCHELL, after being duly sworn, testified
15 as follows:

16 THE CLERK: Have a seat and state your name for
17 the record, please.

18 THE WITNESS: Tina Mitchell.

19 DIRECT EXAMINATION

20 BY MR. BUNCE:

21 Q Ms. Mitchell, do you know Travis Williams?

22 A Yes, sir.

23 Q How do you know him?

24 A Through the family, family friends, next-door
25 neighbor.

1 Q And did you know that Mr. Williams was accused of
2 sexually assaulting [REDACTED]

3 A Yes, sir.

4 Q Do you know [REDACTED]

5 A Yes.

6 Q Did you know her at the time of the accusation?

7 A Yes.

8 Q How did you know her?

9 A They lived across the street from us at the time,
10 when I first met [REDACTED] and the family.

11 Q So had you known her for a while before all this
12 happened?

13 A Since 2003.

14 Q And after you heard about the accusation against
15 Travis, did you have an occasion to talk to [REDACTED] about
16 it?

17 A Yes, I used to talk to her all the time and do her
18 hair. At that time that it happened, about three days
19 after Travis went to jail, she admitted to me that she
20 lied about it.

21 Q And you say "went to jail." Was that jail the first
22 time?

23 A The first time.

24 Q Okay. And it's before he pled guilty?

25 A Yes.

1 Q Okay. Did you have any other conversations with
2 [REDACTED] about this?

3 A Yes, sir.

4 Q Okay.

5 A It was about three different times that we talked
6 about it and I asked her to go ahead and admit that she
7 was telling a fib, that it wasn't good for her to do this
8 because he would get in a lot, a lot of trouble, and she
9 said she was just too scared to say anything.

10 Q Okay. And you told -- did you tell Lisa Williams
11 about that?

12 A Yes, I told Lisa, the grandmother, and I also spoke
13 with Crystal.

14 Q Okay. Did Mr. Nathaniel Roberson, Travis' attorney,
15 ever contact you to find out what you knew about this?

16 A No.

17 Q Okay. If called to testify at Travis's trial, would
18 you have said what you testified to today?

19 A Yes.

20 MR. BUNCE: That's all the questions I have.

21 MR. LEE: No questions for this witness, Your
22 Honor.

23 THE COURT: You may step down.

24 THE WITNESS: Thank you.

25 MR. BUNCE: Your Honor, we'd call Sarah

1 Williams.

2 SARAH WILLIAMS, after being duly sworn,
3 testified as follows:

4 THE CLERK: Have a seat and state your name for
5 the record.

6 THE WITNESS: Sarah Williams.

7 DIRECT EXAMINATION

8 BY MR. BUNCE:

9 Q Ms. Williams, are you related to Travis Williams?

10 A Yes, sir.

11 Q How are you related?

12 A I'm his stepmother.

13 Q Were you present at Travis' plea hearing?

14 A Yes.

15 Q Okay. Were you present before the plea hearing at
16 any point when Mr. Roberson talked to Travis?

17 A Yes.

18 Q Did you hear Travis speak to his attorney after the
19 plea hearing?

20 A I'm not sure. I can't remember that.

21 Q Did Travis indicate after the plea hearing that he
22 wanted his attorney to do anything?

23 A He wanted a jury trial.

24 Q A jury trial? This is after the plea?

25 A Oh, no, I'm sorry. No. I'm nervous.

1 Q Okay. So after the plea hearing, after Travis pled
2 guilty and was sentenced --

3 A Uh-huh.

4 Q -- did Travis say anything to his attorney?

5 A No, but I did.

6 Q What did you say?

7 A I wanted it appealed.

8 Q Okay. Did he tell you anything about whether he was
9 going to do that?

10 A The only thing, Mr. Roberson looked at me and the
11 judge said he was guilty, 20 years, all of us started
12 crying, and when we got ready to leave, I spoke up and
13 turned around and looked at Mr. Roberson and told him I
14 wanted it appealed, and Mr. Roberson hollered out "what?"

15 Q And did you hear any of the discussion before the
16 plea hearing about what the -- if there was a plea deal?

17 A Yes, sir.

18 Q What was the discussion?

19 A When we got here that morning with the trial,
20 Mr. Roberson said, you know, they had made another -- made
21 him a plea bargain.

22 Q Okay.

23 A They dropped one charge, zero to 20, and my daughter,
24 she collapsed in the bathroom and when we come out, he was
25 already in front of the judge. I mean, like I said, my

1 daughter, she had collapsed in the bathroom and we had to
2 call the rescue squad to come and get her.

3 Q Were you there on the Sunday before?

4 A No, I didn't get to make that.

5 Q Did you ever have an occasion -- before all this took
6 place, did you ever have a chance to speak to Crystal
7 Hoover about the accusations?

8 A Yes.

9 Q What did Crystal tell you?

10 A She told me that it was not true, that [REDACTED] had
11 told her a lie, that she had admitted to her that Travis
12 didn't do this to her.

13 Q And before his plea hearing, did you have -- did you
14 ever speak to anyone else who said that [REDACTED] admitted
15 she made up the whole thing?

16 A Yes.

17 Q Who was that?

18 A She talked with my daughter, Regina; my niece.
19 There's a lot of them.

20 Q Okay. Did you tell Travis' lawyer about these
21 people?

22 A Yes.

23 Q Okay. You actually told him?

24 A Yes.

25 Q How did you do that?

1 A I was the first one that talked with Mr. Roberson.

2 I'm the one that hired Mr. Roberson, the first.

3 Q And that was the day that he was brought up for a
4 bond hearing the first time?

5 A Yes.

6 Q He didn't have a lawyer there?

7 A No.

8 Q And Mr. Roberson happened to be there?

9 A Yes.

10 Q And tell the Court how that happened.

11 A My son turned himself in and then he was transferred
12 from Orangeburg to Lexington and when he went for a bond
13 hearing, you know, we didn't have an attorney. And I had,
14 you know, met some people there and I was asking if they
15 knew of an attorney and there was this lady there, she
16 told me that Mr. Roberson was an attorney.

17 Q Okay.

18 A And I asked to talked with him, and he said, "yes."
19 And me and my daughter went outside and was talking to him
20 and I told him the situation and he said, you know, he
21 would -- he stood there for the bond hearing. We asked
22 him how much would he charge us, and he told me, and we
23 had a couple conversations over the phone.

24 Q You talked to Mr. Roberson during this whole period
25 of time?

1 A Yes.

2 Q At any point did his attitude change about the case?

3 A Yes.

4 Q When was that?

5 A When he first found out -- when I asked how much he
6 would charge and when I told him we couldn't come up with
7 that kind of money, then he just, you know, started going
8 downhill. Every time I would call the office, he would
9 never be in, or he wouldn't return my calls. Sometimes I
10 would catch him and he would tell me he was in court and
11 he would call me back, but he never did.

12 MR. BUNCE: All right. That's all the questions
13 that I have.

14 CROSS-EXAMINATION

15 BY MR. LEE:

16 Q Just briefly, Ms. Williams.

17 With regard to -- I think you said that after
18 the plea you told Mr. Roberson that you wanted to appeal
19 the case, right?

20 A Yes.

21 Q But I think you also said that Travis didn't say
22 anything to Mr. Roberson; is that correct?

23 A That day we all was upset.

24 Q Right, right --

25 A All of us was crying.

1 Q But Travis didn't specifically say he wanted to
2 appeal, you told Mr. Roberson that you wanted to appeal,
3 correct?

4 A To be honest with you, I really don't know because,
5 like I said, all of us was upset and I remember looking at
6 Mr. Roberson and said it out loud in front of the whole
7 courtroom I wanted it appealed and he hollered at me
8 "what?"

9 Q Okay. Now, you talked about a plea deal where
10 Mr. Roberson said that the State would drop one charge and
11 that the sentencing range would be between zero and 20,
12 correct? And, in fact, the State did drop one charge and
13 Mr. Williams got 20, correct?

14 A Yes.

15 Q Okay. Now, you said that Mr. Williams turned himself
16 in?

17 A Yes.

18 MR. LEE: Okay. Beg the Court's indulgence.
19 No further questions for this witness, Your
20 Honor.

21 THE COURT: Any responsive redirect?

22 MR. BUNCE: No, no other questions.

23 THE COURT: Thank you, ma'am. You may step
24 down.

25 MR. BUNCE: I would call Travis Williams.

1 TRAVIS WILLIAMS, after being duly sworn,
2 testified as follows:

3 THE CLERK: Have a seat and state your name for
4 the record.

5 THE WITNESS: Travis Williams.

6 THE COURT: Lean forward and speak into the
7 microphone, sir.

8 THE WITNESS: Travis Williams.

9 THE COURT: That's fine.

10 DIRECT EXAMINATION

11 BY MR. BUNCE:

12 Q You were arrested on or about July 14th of 2006; does
13 that sound right?

14 A Yes, sir.

15 Q And at that point were you able to make bond?

16 A No, sir.

17 Q At some point were you brought in for a bond hearing,
18 though?

19 A Yes.

20 Q Did you hire an attorney?

21 A At the time Mr. Roberson.

22 Q And was that you that actually did that or --

23 A No, my stepmom did.

24 Q Sarah Williams?

25 A Yes, sir.

1 Q And this was at your initial bond hearing?

2 A Yes, sir.

3 Q Did you speak to Mr. Roberson at that point?

4 A Briefly.

5 Q And what did you talk about?

6 A He was just talking about that he was going to try to
7 get me a bond and stuff where I can get back out to work
8 and help, you know, to --

9 THE COURT: Counsel, let me stop for a second.
10 What's the relevance of this testimony at this point?

11 MR. BUNCE: Just about the substance of the
12 conversations he had with his counsel, Your Honor.

13 THE COURT: You're attacking the guilty plea --

14 MR. BUNCE: Yes, Your Honor.

15 THE COURT: -- and failure to appeal, so what's
16 the relevance of the conversation at the bond hearing to
17 that?

18 MR. BUNCE: It has to do with his level of
19 coercion, Your Honor, whether or not his counsel was
20 prepared to go forward.

21 THE COURT: At the bond hearing?

22 MR. BUNCE: I think I can get past this, Your
23 Honor, very briefly.

24 THE COURT: I'm going to instruct you to get
25 past this. Let's get to the relevant portion, please,

1 sir.

2 MR. BUNCE: All right.

3 BY MR. BUNCE:

4 Q You didn't speak to him about the substance of your
5 case then?

6 A No, sir.

7 Q But you spoke to him other times?

8 A Yes, sir.

9 Q How many times did you meet with him?

10 A At his office, I probably met him three times, and I
11 was seeing him when we come up here to the courthouse.

12 Q And at some point, did your relationship with
13 Mr. Roberson change?

14 A Yes.

15 Q When?

16 A When I couldn't come up with the money to pay him.

17 Q How did it change then?

18 A I mean, it was like he didn't care, you know what I'm
19 saying? He just wasn't doing nothing, he wasn't doing his
20 job to me.

21 Q Did you ask the Court to appoint you counsel?

22 A Yes, sir.

23 Q When did you do that?

24 A When I come up here, I can't remember the date, but I
25 was up here one day at the county -- I mean at the

1 courthouse.

2 Q Was in that October of 2006?

3 A Somewhere around in there.

4 Q And when you asked for appointed counsel, who did the
5 Court appoint for you?

6 A Mr. Roberson.

7 Q Did you tell Mr. Roberson about potential witnesses
8 in your case?

9 A Yes, sir.

10 Q Who did you tell him about?

11 A I told him about the ladies at the trailer park. I
12 told him about my sister and Keith and William Collins,
13 and I told him about Crystal and my sister and them.

14 Q Keith and William Collins, what would William Collins
15 have to say about this?

16 A I mean, William Collins and them was staying at the
17 house at this time, and I suppose they'd been in the room
18 with her. William seen his son was in the room with her.
19 So I mean, I don't know how --

20 Q William Collins, Jr., was he in a relationship with

21 [REDACTED]

22 A Yes.

23 Q Okay. And they were living in the same house?

24 A Yes.

25 Q How old was William at the time?

- 1 A Probably 16, I think.
- 2 Q Now, before April of 2007, did you discuss with
- 3 Mr. Roberson about pleas in your case?
- 4 A No, sir.
- 5 Q You didn't talk about pleas?
- 6 A No, sir.
- 7 Q Did you tell him whether you wanted to plea?
- 8 A No, sir.
- 9 Q Did you tell him that you did not want to plea?
- 10 A No, I did not want to plea.
- 11 Q Why?
- 12 A Because, why would I plead to something I didn't do?
- 13 Q When was the last time you spoke to Mr. Roberson
- 14 before your plea hearing?
- 15 A That Sunday, April 29th.
- 16 Q And was that the day before you were scheduled for
- 17 trial?
- 18 A Yes, sir.
- 19 Q Who else was present at that meeting?
- 20 A Crystal Hoover; my sister, Lisa Williams; Keith
- 21 Collins and his son.
- 22 Q And they were present for the entire meeting with
- 23 Mr. Roberson?
- 24 A Yes, sir.
- 25 Q What did he tell you then about your case?

1 A He said he didn't have no defense and that he didn't
2 see why I would want to go to trial and if I was found
3 guilty, I'd get 60 to life, you know what I mean? And he
4 just say he didn't have no nothing to do with it, you know
5 what I'm saying? He said it'd be best if I took a plea.

6 Q Did he tell you whether he was ready with those
7 witnesses you told him about?

8 A No, he told me that it was my job to get them to him
9 where he could talk to them. So when I brought him one --
10 I mean the witnesses there, he didn't react on it.

11 Q You brought William into him?

12 A Yes, sir.

13 Q And William was willing to testify?

14 A He even wrote a statement.

15 Q That he and [REDACTED] had had some kind of relationship?

16 A Yeah.

17 Q A physical relationship?

18 A Yeah.

19 Q All right. Did he tell you -- that day, did he tell
20 you what the potential sentence would be if you went to
21 trial and were found guilty on both charges?

22 A Yes, he told me I'd get from 60 to life.

23 Q So what did you understand would be your defense if
24 you went to trial?

25 A Just the witnesses.

1 Q What witnesses?

2 A I mean, Crystal, William, and --

3 Q Was he going to be willing to put Crystal on the
4 stand?

5 A No, he said he would not put her up there.

6 Q So he recommended you plead guilty?

7 A Yes, sir.

8 Q Did he tell you whether there was any kind of plea
9 deal?

10 A Yes, he told me if I pleaded guilty they would drop
11 one charge and I would plead to zero to 20, but he would
12 get me ten.

13 Q Okay. Did he say whether it was likely you would get
14 ten?

15 A He said that's what I'd get, because I was going in
16 front of a more lenient, more younger judge.

17 Q And did he use any words to tell you how likely it
18 was you'd get that sentence?

19 A He told me that's what I was looking at.

20 Q So did you agree to accept the deal?

21 A Yes, sir.

22 Q Now, the day of the plea hearing, or the day -- I'm
23 sorry. On either that Sunday or the day of the plea
24 hearing, did Mr. Roberson explain to you how the plea
25 hearing would work?

1 A No, sir.

2 Q Did he have you -- did he come out and talk to you on
3 Monday, the day of the hearing?

4 A We spoke on the outside of the courtroom.

5 Q What did he tell you about what was going to happen?

6 A He just told me when I signed the paper, that was it
7 for the plea.

8 Q Okay. He told you you had to sign a paper of some
9 sort?

10 A Yes, sir.

11 Q That was related to the plea deal?

12 A Yes, sir.

13 Q And what would happen after you signed that plea?

14 A I would go in front of the judge and be sentenced.

15 Q Would you've accepted the plea deal if you'd thought
16 you could actually receive 20 years?

17 A Excuse me?

18 Q Would you have accepted the plea deal if you thought
19 you could actually receive the 20 years?

20 A No, sir.

21 Q Would you have accepted the plea deal if Mr. Roberson
22 had agreed to put Crystal on the stand?

23 A No, sir.

24 Q Would you have accepted the plea deal if Mr. Roberson
25 had lined up any of those witnesses at trial --

1 A No, sir.

2 Q Let me finish this question.

3 Would you have accepted the plea deal if
4 Mr. Roberson had lined up any of the questions -- any of
5 the witnesses for trial regarding [REDACTED] recanting?

6 A No, sir.

7 Q Would you have accepted the plea deal if Mr. Roberson
8 lined up any witnesses for the trial to show that you were
9 set up?

10 A No, sir.

11 Q Did he explain to you at all how the plea hearing
12 would work?

13 A No, sir.

14 Q Was the plea deal on April 30, was that -- was the
15 plea deal as presented to the Court accurate?

16 A No.

17 Q I'm sorry?

18 A No, sir.

19 Q When was the first time you realized it wasn't
20 accurate?

21 A After I had been sentenced.

22 Q Did you know you could withdraw your plea at any time
23 during the hearing and what you said earlier couldn't be
24 used against you?

25 A No, sir.

1 Q Did Mr. Roberson explain that to you at any point?

2 A No, sir.

3 Q Was this the first time you'd ever been in front of a
4 judge?

5 A Yes, sir.

6 Q For a plea hearing?

7 A Yes.

8 Q Were you pleased after the plea hearing?

9 A No, sir.

10 Q Why not?

11 A Because I didn't get what I was supposed to.

12 Q Did you appeal?

13 A No, I told Mr. Roberson to.

14 Q Okay. And did he say anything when you told him to?

15 A Yes, he told me he would go to his office and get
16 right on it.

17 Q Was that appeal ever filed?

18 A No, sir.

19 Q All right. At any time before the plea hearing, did
20 Mr. Roberson tell you that you could fire him?

21 A No, sir.

22 Q Did he -- at any point before that plea hearing, did
23 Mr. Roberson tell you that you could ask the Court to
24 appoint another attorney?

25 A No, sir.

1 Q Did he know you weren't happy with him?

2 A I guess he did.

3 Q At any point before the plea hearing, did
4 Mr. Roberson tell you you could change your mind during
5 the plea hearing?

6 A No, sir.

7 Q Did he tell you you could withdraw your plea during
8 the proceeding?

9 A No, sir.

10 Q Did he tell you that the deal presented to the Court
11 wasn't accurate and you could change it?

12 A No, sir.

13 Q You could change your mind?

14 A No, sir.

15 Q Did he ever tell you that the entire deal must be
16 stated at the plea hearing or else there's no deal?

17 A No, sir.

18 Q What do you think Mr. Roberson should have done in
19 your case?

20 A I think he should have subpoenaed my witnesses and
21 had my case prepared to go to trial.

22 Q Would you have pled guilty if he had done that?

23 A No, sir.

24 Q Would you have pled guilty if your attorney was
25 prepared to go to trial?

1 THE COURT: That's asked and answered. Let's
2 move on.

3 MR. BUNCE: That's all the questions I have.

4 THE COURT: Thank you, sir.

5 Mr. Lee.

6 MR. LEE: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. LEE:

9 Q Mr. Williams --

10 A Yes, sir.

11 Q -- do you recall at the plea hearing having a
12 discussion with the judge about your plea? The judge
13 asked you several questions and you answered them; do you
14 recall doing that?

15 A Yes, sir.

16 Q Okay. Do you recall during that plea hearing being
17 asked if you're pleading because you were guilty twice,
18 and saying -- twice saying "yes" that you were pleading
19 because you were guilty?

20 A No, sir, I don't remember that.

21 Q Do you have the transcript in front of you?

22 A No, sir.

23 MR. LEE: Beg the Court's indulgence one second,
24 Your Honor.

25 THE COURT: Mr. Lee, I've read the transcript --

1 MR. LEE: Okay. All right.

2 THE COURT: -- and it's in there.

3 BY MR. LEE:

4 Q Do you recall at the plea hearing the judge asking
5 you, "You're aware that all plea bargains have to be on
6 the record or they don't exist basically"? And you said,
7 "Yes, sir, I understand that"; do you recall that?

8 A Yes, sir.

9 Q Okay. Do you recall the judge asking you, "Are there
10 any witnesses that you need your lawyer to speak with or
11 subpoena"? And your saying, "No, sir"; do you recall
12 that?

13 A No.

14 Q Okay. Do you recall the judge asking you if you were
15 satisfied with the services of your attorney and your
16 saying "yes"?

17 A Yes, sir.

18 MR. LEE: That would be all my questions for
19 this witness, Your Honor. Thank you.

20 MR. BUNCE: I have no further questions.

21 THE COURT: Thank you, sir. You may step down.
22 Do you have any further witnesses?

23 MR. BUNCE: Your Honor, at this point, we'd like
24 to keep the record open if we could, Your Honor. Ashley
25 Walker, one of the witnesses we referred to earlier about

1 his witness to the recantation, she's not able to get
2 transportation here.

3 THE COURT: Recantation by [REDACTED]

4 MR. BUNCE: By [REDACTED]

5 THE COURT: Let me ask you this. I'm not going
6 to allow you to keep the record open for that. I'll note
7 for the record that you're protected on that; however,
8 under State versus -- Bannister versus State and Glover
9 versus State, you have to present competent evidence.

10 Everything I've heard from every single witness
11 about alleged recantation is hearsay. And so if you were
12 putting it up in trial, it wouldn't be admissible if
13 there's a proper objection. The fact the State didn't
14 object to it doesn't make it competent. And so I'm
15 asking, is there some other competent evidence that you
16 have that you intend to present and I may consider it, but
17 just if she's going to stand up and say Crystal, tell her
18 no, that I will not allow you to do that.

19 MR. BUNCE: I'm sorry?

20 THE COURT: I would not allow you to present
21 another witness -- to keep the record open for another
22 witness to testify that [REDACTED] allegedly recanted
23 her story --

24 MR. BUNCE: Okay, sir. Your Honor --

25 THE COURT: -- because it's not admissible under

1 the Rules of Evidence, as I see it. If it is, correct me,
2 I'm glad to be corrected.

3 MR. BUNCE: Well, Your Honor, can I get a chance
4 to brief on this, Your Honor? I believe that a
5 recantation prior to -- of an accusing witness is
6 admissible.

7 THE COURT: Sure, I'll let you do that. I won't
8 let you put any more witnesses -- you've put sufficient
9 evidence in the record through the mother, through the
10 other witnesses that this victim allegedly said it didn't
11 happen, the mother supposedly did what she did. I've got
12 those notes and I think anything else would be merely
13 cumulative, but I'll let you brief it.

14 MR. BUNCE: And there's one other, Your Honor,
15 if I may.

16 [REDACTED] has been very reluctant -- she's
17 a minor -- very reluctant to come here and testify. If I
18 could get her affidavit would that --

19 THE COURT: Did you subpoena her today?

20 MR. BUNCE: I did.

21 THE COURT: Let me see it.

22 Go ahead and describe that for the record so it
23 is in the record, please, sir.

24 MR. BUNCE: Your Honor, I have here the cover
25 letter to the Orangeburg County Sheriff directing them on

1 how to serve the subpoenas on this day of January 19th,
2 2010. I have the originals of the three subpoenas. I
3 have copies of the checks for the witness fees for those,
4 Your Honor.

5 THE COURT: I want to go ahead and hear about
6 [REDACTED]

7 MR. BUNCE: Actually, I do not have those. I
8 previously subpoenaed them in November and had forwarded
9 checks for witness fees at that time.

10 THE COURT: So you did not subpoena her to this
11 hearing?

12 MR. BUNCE: No, I did, Your Honor. I subpoenaed
13 them twice. There was a previous hearing on this
14 schedule.

15 THE COURT: What I'm looking for is the subpoena
16 for [REDACTED]

17 MR. BUNCE: It is here.

18 THE COURT: I'm basing my opinion, or my
19 decision on whether to allow you to submit an affidavit
20 from her on whether or not she was subpoenaed for this
21 hearing. If she was, I want to hear about it.

22 MR. BUNCE: She was, Your Honor.

23 THE COURT: Okay. Go ahead and describe what
24 that is for the record, please, sir, and make it a part of
25 the record.

1 MR. BUNCE: Okay. This is a subpoena for
2 [REDACTED] signed by myself, Your Honor, on
3 January 13th, 2010. I have the return from the subpoena
4 proof of service that indicates the signature of the
5 server is Deputy Randy Thompson, Your Honor. I believe
6 that's executed on [REDACTED] and there's a
7 signature on here, Your Honor, that appears --

8 THE COURT: That's for today's hearing?

9 MR. BUNCE: That is for today's hearing, Your
10 Honor.

11 THE COURT: Okay. That's what I was looking
12 for.

13 How old is this child?

14 MR. BUNCE: I believe she is 17 at this time,
15 Your Honor.

16 THE COURT: Seventeen?

17 MR. BUNCE: Yes, Your Honor.

18 THE COURT: I'll give you my decision this
19 afternoon, okay, sir?

20 MR. BUNCE: Yes, Your Honor. Do you need these
21 initial returns?

22 THE COURT: Just make them a part of the record.
23 I think Ms. Comer can make a copy, if necessary, so you
24 have something in your file still.

25 Is that okay, Ms. Comer?

1 THE CLERK: That's fine.

2 THE COURT: Thank you.

3 (WHEREUPON, Court's Exhibit No. 1 was marked for
4 identification only.)

5 THE COURT: So, at this stage, have you rested
6 your PCR depending on my ruling?

7 MR. BUNCE: Yes, Your Honor.

8 THE COURT: Okay. And just so we're clear,
9 first, you've been very well prepared, and I appreciate
10 that. You articulated your position very well.

11 I'm not going to allow you to call another
12 witness to say what the victim said about recanting her
13 story. Okay?

14 MR. BUNCE: I understand, Your Honor.

15 THE COURT: I think it would be cumulative. I
16 don't believe it's admissible; however, I'm going to allow
17 you ten days to get me a brief to establish that it is
18 admissible.

19 I'm going to consider your request for an
20 affidavit of the alleged victim and will give you my
21 decision by week's end, probably this afternoon, as to
22 whether or not I will allow that. If I do, it will be
23 within ten days from today's date or from the date of
24 notice.

25 Is that clear, or do you have any questions on

1 that?

2 MR. BUNCE: Yes, Your Honor.

3 THE COURT: Are you ready to proceed, Mr. Lee?

4 MR. LEE: Thank you, Your Honor. The State
5 calls Nathaniel Roberson to the stand.

6 NATHANIEL ROBERSON, after affirmation,
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. LEE:

10 Q Mr. Roberson?

11 A Yes, sir.

12 Q How long have you been practicing law?

13 A Over 15 years.

14 Q Okay. How much of that practice is in the area of
15 criminal law?

16 A About maybe 40 percent of my criminal work is
17 federal, the remaining is state. I do medical
18 malpractice, I do criminal law, family law, and a little
19 workers' comp.

20 Q Now, I believe there's some confusion as to whether
21 you were appointed or retained in this case. Could you
22 clear that up for the Court, please?

23 A There's no confusion.

24 On the day Mr. William was arrested, I was
25 either in the process of leaving the jail or going to the

1 jail. Ms. Williams, his stepmother, Sarah Williams, came
2 out and stopped me and asked if I was a lawyer, and I told
3 her yes, I am. And she told me that her son had just been
4 arrested and that they did not have a lawyer and that they
5 did not have a lot of money, but that she felt he needed
6 somebody and she asked me, I believe, if I would be
7 interested in representing him. And, of course, I make no
8 such commitments in that atmosphere without having some
9 knowledge of the case and the defendant and that kind of
10 thing. I believe I told her that I would have to
11 interview him and get back to her or something on that
12 order, but I didn't make a commitment on that day to being
13 hired to represent him.

14 But I felt the urgency in her voice because I
15 believe that there was an all points bulletin out over
16 several local television stations that he was wanted. So,
17 I understood the urgency of it, and that's why I told her
18 that I would get back to her quickly.

19 And I believe I interviewed Travis on the 27th
20 of July.

21 Q Okay. Now, during this conversation --

22 A But let me tell you how I got hired.

23 After I interviewed him, I told Ms. Williams
24 what my fee would be, and I think she made an honest
25 effort to come up with that money, but they were unable to

1 do so.

2 I did not compromise his rights or even attempt
3 to give him any lesser representation because they were
4 unable to hire me. And I had several conversations with
5 members of his family during the time when they, I guess,
6 were trying to raise the money to retain me.

7 It got to the point where I simply had to say to
8 them that Travis needs a lawyer now who is going to be
9 with him throughout the case because the charges
10 themselves are really serious and his punishment was
11 really serious.

12 Ms. Williams and her family went to Judge
13 McMahon and got Judge McMahon to appoint me. I didn't
14 find out about it until the court reporter called me to
15 tell me that I had been appointed. And I believe
16 Ms. Williams maybe indicated to me that -- I think I
17 explained to her what the process would be to get
18 appointed counsel and I believe somehow she was able to
19 get an audience with the judge and the judge appointed me
20 because I had, in fact, been representing him up to that
21 point.

22 Q Okay. So it wasn't a "hire you, then they can't pay
23 you," kind of thing. It was they couldn't pay you so they
24 didn't hire you and, in fact, they went to the judge and
25 got you appointed?

1 A Yes.

2 Q Okay. Now, after you were actually appointed to the
3 case, did you have occasion to meet with the applicant?

4 A Yes.

5 Q Do you recall about how many times you met with him?

6 A Numerous times.

7 Q Okay. And --

8 A And I had numerous -- Ms. Williams was the primary
9 person who was focusing on Travis having representation.
10 And I had numerous conversations with her. Matter of
11 fact, I had more conversations with her than I had with
12 Travis.

13 Q But at some point after your representation began,
14 you did have occasion to meet with Mr. Williams on several
15 occasions?

16 A Yes, yes.

17 Q During those discussions, would you have gone over
18 things like his version of the facts of the case?

19 A Mr. Williams was never really vocal about what the
20 facts were. And he never told me what his defense would
21 be. So I had to try and understand what his defense would
22 be and assume that it would be not guilty.

23 At some point in time the DNA results came back
24 because there were several things back and forth between
25 Lexington Hospital and the Solicitor's office about the

1 final results of the DNA test, but eventually I received
2 all of the discovery.

3 I had been having discussion with Mr. Williams
4 and Ms. Williams along the way about witnesses, what
5 defenses would be, and that kind of thing.

6 When I finally got the discovery, I had
7 Mr. William Travis (sic) come to my office. He came that
8 day with the mother of the victim. And, of course, I
9 explained to him the danger of having the mother of the
10 victim in that conversation between us, given the fact
11 that the mother is the one who brought the police into it,
12 had given a statement against him, and was determined that
13 he would be prosecuted based on those statements. And I
14 explained to him the danger of him -- of there being an
15 exchange between me and him in light of the DNA, in light
16 of all those statements and all of the evidence I had
17 against him.

18 And to preserve his right to possibly take the
19 witness stand, I said to him, "If you want to have her
20 here, I do not want you to comment one way or the other on
21 this evidence I'm going to share with you because I want
22 to protect certain rights that you have." And I explained
23 to him fully the complete package of evidence that I
24 received from the Solicitor's office.

25 I also explained to him the test results from

1 the DNA. And I also told him at that point that since he
2 was declared indigent by Judge McMahon, I would get Judge
3 McMahon to give me some monies so that I could have the
4 DNA tested by a person who we wanted. And Judge McMahon
5 did, in fact, authorize me to do that.

6 But during the hearing -- during the discussion
7 that we're talking about now, I explained to him all of
8 the evidence, I explained to him his rights to a trial by
9 a jury, I explained to him guilty pleas.

10 And I never explain to a defendant in detail
11 what the plea colloquy will be between the judge and the
12 defendant because I don't want there to be a crossing of
13 the line where I give greater influence to what my
14 position would be than his because I know that the judge
15 will ask those questions and I wouldn't want any defendant
16 to be able to say that I told them what the questions
17 would be so that they could frame the proper answers.

18 But I explained to him all of what a jury trial
19 offers, his right to call witnesses, his right to
20 cross-examine witnesses, his right to present evidence on
21 his behalf, and I try to give all of my defendants,
22 including him, a cram course on what is admissible
23 evidence, what is hearsay, and how those kind of things go
24 so they can make their decision.

25 And at the end of my discussion with him, during

1 that conversation where I prohibited him from commenting
2 on what I explained to him and what position he's going to
3 take, I advised him to go home and think about it and then
4 call me back and let me know what his position would be.

5 Q Okay. Now, did you feel like during all these
6 discussions the applicant understood you in the course of
7 your conversation?

8 A I was impressed that he understood what was going on.
9 He didn't want to comment on it because I assume that he
10 is -- he is a relatively quiet person, that's what I
11 gathered, and he just didn't talk much.

12 Q But you never got the feeling that didn't he
13 understand the conversation?

14 A No, I would not allow that to happen.

15 Q Okay. Now, you spoke briefly about witnesses and
16 defenses -- not defenses, the State's discovery and
17 evidence. Let's clear that up a little bit for the Court.

18 Particularly with relation to the discovery, did
19 you talk about what that consisted of?

20 A It consisted of the statements of the victim, the
21 statements of the mother, the DNA results, Officer
22 Baumgardner's investigative reports, the scientific report
23 from Lexington Hospital, the scientific report from SLED
24 with the DNA. There was an incident report from the
25 Orangeburg County Sheriff's Department who directed them

1 back to Lexington County, a printout of what is called --
2 a printout of what would have been Mr. Williams' record,
3 if any.

4 Q Was there any of Mr. Williams', the applicant, semen
5 found on the victim?

6 A The DNA test came back to say the likelihood of it
7 not being Mr. Williams was one in 250,000.

8 Q And was that in relation to the semen found on the
9 abdomen?

10 A If I remember the results correctly, there was swabs
11 taken from the vagina of the victim.

12 Q From inside the vaginal vault?

13 A Yes.

14 Q Okay. And that was one in 250,000?

15 A Right. And then there was another test that was
16 done, the likelihood of it being someone else was like 17
17 quintillion, or something to that effect.

18 Q One in 17 quintillion?

19 A One in 17 quintillion.

20 Q And that was more the likelihood of it being
21 Mr. Williams, correct?

22 A Right.

23 Q Was there any other evidence found within the room
24 when the police came?

25 A The police had pictures of his underwear, they had

1 pictures of the bed that the young lady was sleeping in,
2 there were pictures of the room.

3 Q Let's talk about Mr. Williams' underwear. Where was
4 that found?

5 A It was found at the foot of the bed, or on the side
6 of the bed where the young lady alleged that the incident
7 took place.

8 Q Okay. Now, after you received all this discovery --
9 I believe you said this already, but I'll ask you again --
10 you did discuss that discovery with the applicant?

11 A Yes, I did.

12 Q And based upon your review of the discovery and your
13 discussions about it with the applicant, did you at some
14 point come to an opinion as to whether the State would be
15 able to prove the applicant's guilt beyond a reasonable
16 doubt?

17 A I was satisfied that the State could prove their
18 case, and I so explained to him on numerous occasions.

19 Q Okay. Now, let's go back to the witnesses, backtrack
20 a little bit.

21 Did anyone ever give you the names or the
22 contact information of witnesses to contact in this case?

23 A While I was having conversation with Mr. Williams,
24 Sarah Williams, his sister, and the mother of the victim,
25 they would always talk about this person was saying that,

1 this person would say all kinds of things, and I would
2 simply say to them: "You need to make that person
3 available to me so that I can talk to them and evaluate
4 whether or not their testimony is admissible, whether or
5 not it's relevant, or whether or not it would play into
6 his theory of the case."

7 I never got an address for anybody even up until
8 the Sunday that -- before we were scheduled to go to
9 trial. They were still talking about what these witnesses
10 would say.

11 The week before the trial, in order to be safe,
12 just in case they did come up with some of these witnesses
13 and they brought them to court, I went and got a bunch of
14 blank subpoenas that I prepared to fill out if they came
15 so that we could serve them and they would be there to
16 testify, but I would still have to talk to them and
17 evaluate their testimony in terms of whether or not it's
18 admissible, and its relevancy.

19 Q So if I'm hearing you correctly, they made
20 allegations that there were people out there that would
21 say this and that, but they never provided the specific
22 names or addresses of these people to you?

23 A I think they called some names, but they never
24 produced an address or phone number so that I could talk
25 to those people.

1 Q Okay. Now, you stated earlier that in your
2 discussions with the defendant, or the applicant, you
3 weren't sure what the possible defenses to the case would
4 be, but you were prepared to go to trial?

5 A I came -- that's the reason we had the Sunday
6 meeting, to prepare for trial. And that's why at that
7 meeting I informed them again that I had these subpoenas
8 for anybody who would be witnesses, who needed to come,
9 that they could bring them, I would fill them out and
10 serve them on them at that time.

11 Q Now, during this final meeting, was that the one
12 where he ultimately decided that he was going to plead
13 guilty?

14 A No. We had some more discussions about the quality
15 of the evidence. And I don't play games with my clients
16 when it comes to how I evaluate the evidence and how it
17 will impact their decisions. And I believe I told them at
18 that point that my position on the State being able to
19 prove their case had not changed; as a matter of fact, it
20 grew stronger. Because when I sent the evidence of the
21 DNA to our expert, his position was that if he was called
22 as a witness, he would only confirm the State's case.

23 I went so far as to -- my expert at the time
24 of -- the trial was scheduled at some earlier date. He
25 had to have hip replacement surgery, so we had to have it

1 continued. When he had his hip replaced, I had him set
2 aside a specific date and time so I that I could call him
3 with Travis so that he could tell Travis what the results
4 were.

5 Travis was in my office when I called him. I
6 put him on the phone and he explained to Travis what this
7 evidence was. That just made the State's case stronger
8 because we didn't have anything that we could put up to
9 show anything different.

10 Q So at that point did he decide that he was going to
11 plead guilty?

12 A No. We came the next morning and I believe me and
13 Travis had some short discussions about the preparation
14 about going to trial. And I also explained to them that I
15 still had these subpoenas for these people they were
16 supposed to bring, and I believe we had some small talk
17 about going to trial and what the impact would be. And I
18 believe he asked me at that point was anything else on the
19 table.

20 Well, let's go back a little bit.

21 The day of the trial he was still facing the two
22 counts of criminal sexual conduct with a minor. Previous
23 to that the State had offered to dismiss one of the counts
24 and they would recommend a sentence of zero to ten years.
25 That's where the ten years come from. So there was an

1 offer for zero to ten, but that was previous to this day
2 we were scheduled to go to trial.

3 Travis came to take the plea and changed his
4 mind. And we, in fact, did have Judge Manning and some
5 other judge and they had allowed me to pick the judge.
6 And I did explain to him that different judges have
7 different sentencing criteria and strategies and that from
8 the available judges, this is the one I thought would give
9 us a better deal between the zero and the ten.

10 He rejected it, and I had Judge McMahon put his
11 rejection on the record after an explanation for what the
12 deal was and what he was exposed to in terms of a jail
13 sentence.

14 Q So he rejected the zero to ten offer?

15 A Right.

16 Q And then you were prepared to go forward to trial?

17 A Yes.

18 Q And then at some point a second offer came to the
19 table?

20 A I don't know that it just came -- after he asked me:
21 "Was anything on the table?" I went to Mr. Wedekind and we
22 had another round of discussions, serious discussions,
23 about the strength of one of the CSC charges.

24 But he had notified me in the letter previous to
25 him rejecting the zero to ten that the offers he had made

1 were no longer available, so I had to go back to him and
2 start from scratch. But we did have this discussion about
3 whether or not he could offer anything.

4 We got into a discussion again about the
5 weakness of one of the cases, and he said, "Okay, I will
6 withdraw that case, but if he pleads it will be straight
7 up and he will be exposed to the 20."

8 I then explained that to Travis. I again
9 explained to him a jury trial, about guilty pleas, and he
10 said he wanted to go and talk to his family.

11 They left and went to breakfast or went
12 someplace and they came back and that's when Travis
13 informed me he would want to take the plea.

14 Q Okay. So it was ultimately the applicant's decision
15 to plead guilty?

16 A Of course.

17 Q Did you, in any way, coerce the applicant into
18 pleading guilty?

19 A Let me put it this way: If I was going to coerce
20 him, I would have done everything I could to get him to
21 take the zero to ten with the two judges we had available.

22 I don't ever coerce anybody into doing anything
23 I explained to him the reality of life, what he was faced
24 with in the first place, what he was faced with on the day
25 we were supposed to go to trial, it was his decision. Ms.

1 Williams and those other people were there when I made
2 those explanations to him.

3 Q Now, after the zero to ten was off the table and you
4 explained the zero to 20, at any point during that time
5 did you guarantee him that he would receive ten years?

6 A No.

7 Q Okay. Did you ever tell him --

8 A No, I guaranteed him he would get up to ten if he
9 took that deal, but I also explained to them that this is
10 what the State is offering, the judge is not bound by it.

11 Q I'm asking you about the time after the zero to ten
12 was off the table.

13 A Okay.

14 Q When you explained the second offer --

15 A Right.

16 Q -- was that there was no recommendation, he's facing
17 zero to twenty, at that time did you tell him he would
18 not --

19 A No, I did not.

20 Q Okay. Did you ever tell him that he would be facing
21 the death penalty?

22 A No. The death penalty is not even available in a
23 criminal sexual conduct case.

24 Q Okay.

25 A And life is not available in any of those cases

1 unless it's a most serious offense and then that occurs
2 and a defendant has been put on notice that he faces a
3 lifetime. That was not applicable in this case.

4 Q So you did not tell him that?

5 A Of course not.

6 Q Okay. Now, I'm sorry, I just want to back up a
7 little bit.

8 I believe in your initial discussions with
9 Mr. Williams and so forth, you said that the mother of the
10 victim, Crystal, came, correct?

11 A Yes.

12 Q And at some point did she tell you that the whole
13 thing had been made up?

14 A After we had that discussion, when I informed him
15 that I didn't want him to respond to anything I explained
16 to him, I believe she called to tell me that she and
17 Travis were having intercourse and that she took the sperm
18 and rubbed it on her abdomen. And my response to her was:
19 "That is very unusual. I would be far more comfortable if
20 you went and had an affidavit made to that effect so that
21 I would have some basis for making this allegation in case
22 something changed and I don't want to look as if I was
23 putting up some evidence that there was no basis in fact
24 or law for me to make."

25 I never heard back from her. When I asked her

1 on that issue, never heard back from her on whether or not
2 she was going to produce that affidavit.

3 Q Would you have explained to her how to go about
4 getting an affidavit in that situation?

5 A I think I told her to go to a lawyer and have
6 somebody write it up for her.

7 Q You wanted her to do that -- is it true that you
8 wanted her to do that because this would have been in
9 complete contradiction to the statement that she gave
10 police?

11 A Yes, of course.

12 Q Okay. Now, did the victim in the case also make a
13 statement?

14 A She did.

15 Q Okay. Did the victim -- did you ever speak to the
16 victim?

17 A They would never produce the victim for me. As a
18 matter of fact, I believe the -- Samantha's grandparents
19 took custody of her henceforth and I don't believe that
20 they even had access to her because I'd asked them when
21 they start talking about what these people were saying, to
22 bring her as well.

23 Q So the victim herself never told you prior to going
24 forward on any of this that none of it happened?

25 A No, I never spoke to her.

1 MR. LEE: Beg the Court's indulgence for one
2 second, Your Honor.

3 THE COURT: All right.

4 BY MR. LEE:

5 Q Regarding the right to appeal, the applicant alleged
6 that he was not afforded his right to appeal. Did you
7 explain the applicant's right to appeal to him?

8 A I explained the right to appeal to Travis on at least
9 three separate occasions. On the morning he pled, I
10 explained to him that whatever sentence the judge gives,
11 you have ten days to appeal that decision, whatever it is.

12 MR. LEE: I believe that's all the State's
13 questions for this witness at this time, Your Honor.

14 THE COURT: Mr. Bunce.

15 MR. BUNCE: Thank you.

16 CROSS-EXAMINATION

17 BY MR. BUNCE:

18 Q You have a copy of your entire file with you there?

19 A Oh, yes.

20 Q Okay. First thing with this DNA, could you find the
21 DNA report? Because I think this is important.

22 A The DNA report?

23 Q The DNA report from SLED.

24 THE COURT: Do you need a minute?

25 THE WITNESS: Yes.

1 THE COURT: Let's take a five-minute break.

2 (A break was taken.)

3 THE COURT: Mr. Roberson, have you had
4 sufficient time?

5 THE WITNESS: Yes, sir, I have, Your Honor.

6 BY MR. BUNCE:

7 Q Mr. Roberson, the DNA report there, there were three
8 samples that were analyzed. The DNA match, in essence,
9 was all coming off of pubic hair?

10 A I misspoke, and you are correct. There were more
11 than just three sample testings. There were swabs from
12 the known pubic hair, swabs from the public (sic) hair
13 combing, swabs from the boxer-briefs, cuttings from the
14 boxer-briefs, and cuttings from the fitted sheets. All
15 those were tested.

16 Q There wasn't actually a sample from -- an internal
17 sample from [REDACTED]

18 A There was not. I misspoke.

19 Q So all this was external to [REDACTED] on the outside
20 of her body?

21 A Yes.

22 Q Or elsewhere?

23 A Right.

24 Q So DNA was driving this case, wasn't it?

25 A As well as the testimony of [REDACTED] the DNA.

1 Q All right. And you obtained permission to hire a DNA
2 expert?

3 A Yes, I did.

4 Q Okay. Were you aware before that -- well before the
5 trial, you were aware that there was an accusation that
6 Crystal had wiped this on him (sic); is that right?

7 A That's what she said to me in a telephone
8 conversation.

9 Q Did you discuss with the DNA expert whether that was
10 consistent with what Crystal was telling you?

11 A I did.

12 Q And what was said?

13 A He said, you know, anything is possible, and that if
14 she said she put the semen on her abdomen, it would be
15 strange for it to end up in the pubic hairs in the vaginal
16 area, the hairs.

17 Q So it depends on where it was wiped?

18 A Her statement to me was that she rubbed it onto
19 Samantha's abdomen, and that's how it got there, and
20 that's what I passed on to my expert.

21 Q So what defense were you prepared to offer at trial?

22 A If you want to be honest about it, we had no defense
23 other than him taking the stand and denying that he did
24 it.

25 Q You weren't going to put Crystal up there?

1 A I would have explained to him the danger of us
2 calling her, and if he insisted, I would have.

3 Q So on Sunday you didn't indicate to him that you
4 weren't going to put her up there?

5 A I was prepared to call anybody he wanted. That's why
6 I had the subpoenas ready and that's why we had the
7 meeting so that we could decide what his defense would be,
8 who we wanted to put up as witnesses, whether the evidence
9 was admissible, whether or not it was protected by the
10 Rape Shield Act and those kinds of things, that's why we
11 had the meeting.

12 Q And there was some evidence from the sexual assault
13 exam that was done on [REDACTED] of some irritation to her
14 external genitalia; is that correct? I have a copy.

15 A Okay.

16 Q Did you obtain her medical records?

17 A No.

18 Q Were they given to you?

19 A This evidence was supplied to me by the Solicitor's
20 office in my discovery motion.

21 Q Okay. You made a discovery motion?

22 A Yes.

23 Q So that exam indicated there's no trauma; is that
24 correct? That was the evidence that you were looking at?

25 A Mild edema of the labia and looks like "nocturnal

1 mach," whatever that is.

2 And show me what you're talking about.

3 MR. BUNCE: May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. BUNCE:

6 Q Down here below, there's what looks like a zero with
7 a slash through it.

8 A Yeah.

9 Q Does that mean in medical notation that a zero, no
10 trauma?

11 A I'm not prepared to say that.

12 Q Okay. But you saw this?

13 A Yes.

14 Q Did you read these?

15 A My expert saw it as well.

16 Q Okay. And so you had a medical expert?

17 A The DNA expert.

18 Q Okay. Your DNA expert read these?

19 A Yes.

20 Q And so you were aware that William Collins, the young
21 gentleman, was going say he had had some --

22 A Who?

23 Q William Collins, did you meet with him on Sunday?

24 A I believe, yes, I think he was there during the
25 Sunday meeting.

1 Also, he wrote me a letter that I had this
2 morning, I don't know what happened to it, but what he was
3 talking about would have been protected by the Rape Shield
4 Act. That would not have been admissible, and that's what
5 I explained to them.

6 Q That he had some sexual relations --

7 A No, that he was fingering her.

8 Q The day before?

9 A He said he had done it on numerous occasions.

10 Q Did he say that there had been some activity the
11 night before?

12 A I can't say that I recall him saying that it was the
13 night before.

14 Q Do you have that in your file? I believe it's a
15 notarized statement. The copy I have is cut off.

16 A Yeah, I remember seeing this statement.

17 Q You don't remember seeing --

18 A I do, yes.

19 Q Okay. Do you remember Mr. Collins telling you that
20 there was -- that he had some activity with her before?

21 A Uh-huh, right.

22 Q And under the Rape Shield statute, there's actually
23 an exception when it goes directly to whether or not
24 there's an explanation for how there's trauma, isn't
25 there?

1 A There's also direct testimony about trauma being
2 inflicted by the defendant as well.

3 Q Sure. But under the Rape Shield statute, you can't
4 go into someone's just general history to show that
5 they're a bad person, but if there's an explanation, if
6 another sexual activity explains the physical findings,
7 that would be admissible testimony, correct?

8 A My understanding is that that is what the Rape Shield
9 Act is intending to protect, sexual activity by someone
10 other than the person who's standing trial at this point.

11 Q Based on that understanding you were counseling
12 Mr. Williams?

13 A I was counseling him on how I viewed the law at that
14 point. And I also told him that if he wanted to put him
15 up, have him there and I would put him on the stand, but I
16 thought an objection would ensure that that testimony not
17 come in.

18 Q And had you filed a motion and offered proof of
19 evidence concerning the alleged victim's sexual conduct
20 under the statute?

21 A Why would I do that if the Rape Shield Act tells me
22 it can't happen about somebody other than the activity
23 with the defendant who's on the stand -- who's on trial?

24 Q Okay. So you didn't make that motion?

25 A No, I didn't.

1 Q Did you seek any medical experts that could provide
2 an opinion regarding whether the results of the sexual
3 assault exam were consistent with the testimony that the
4 young Mr. Collins was going to give?

5 A I just told you I hired a DNA expert to evaluate the
6 DNA results that weighed heavy on the State's ability to
7 prove its case consistent with the testimony of the
8 victim.

9 And by you saying that this slash means there's
10 trauma, I'm not prepared to accept that. The slash may
11 well mean that there is trauma to her vaginal area. She's
12 also alleging that Travis is the one who inflicted the
13 trauma.

14 Q So you read his medical records and you didn't know
15 what they said?

16 A I didn't read his medical records. That's why I
17 hired an expert. I'm not a doctor.

18 Q So, Mr. Roberson, is it up to your clients, then, to
19 do the investigation in their cases?

20 A No, it's not. I did the investigation based on what
21 evidence they gave me. The names of witnesses who would
22 testify to certain facts, circumstances, they never
23 produced them. I had the subpoenas prepared to serve on
24 anybody they brought on the day of the trial when they
25 again promised me that they would bring these people.

1 Q Did you request funds for an investigator to find and
2 interview the neighbor who could have provided an alibi?

3 A If they had given me the names and addresses of these
4 people, I would have gone back to Judge McMahon and I feel
5 certain he would have given me money to do that.

6 Q Did you contact any witnesses that you know of?

7 A Sir, how many times do you want me to answer that?

8 Q Did you contact any witnesses that weren't brought
9 into your office other than your DNA expert?

10 A I do not know how to contact them because I do not
11 have addresses where these people are. They're the ones
12 who are telling me about what they would say, or would not
13 say. They did not provide me with any addresses.

14 Q Well, you had Mr. Williams' address, didn't you, and
15 the address the incident took place at?

16 A Sir, do you want to explain to me the difficulty that
17 I really had getting him to cooperate? I had to send him
18 certified letters.

19 Q That's not the question. The question was: Did you
20 have his address?

21 A Yes, I did.

22 Q You knew where the incident took place?

23 A Yes.

24 Q And you knew that the next-door neighbor had
25 potentially valuable testimony to offer?

1 A Sir, this evidence was being given to me long after
2 the crime scene had been exploited for investigative
3 purposes and there's nothing there to see other than the
4 trailer.

5 Q Okay. But you knew that the witness who could have
6 offered an alibi lived next door?

7 A That is what they told me, but they never gave me an
8 address. And, as a matter of fact, at the time they gave
9 it, I don't even think she was living at that address
10 because they couldn't produce her for me, not because they
11 give me an address.

12 Q Did Travis ask you to appeal his guilty plea?

13 A No, sir, he did not.

14 Q Did you have any witnesses under subpoena for the
15 trial? You had a medical doctor under subpoena for the
16 trial, didn't you?

17 MR. LEE: Objection, Your Honor. He's asked
18 this question a lot.

19 THE COURT: He's answered that. He said he had
20 the subpoenas there. I'm familiar with what he said.

21 MR. BUNCE: One moment, please.

22 THE COURT: Yes, sir.

23 MR. BUNCE: No further questions, Your Honor.

24 MR. LEE: Redirect?

25 THE COURT: Yes, sir.

1 MR. LEE: Thank you, Your Honor.

2 THE COURT: Responsive redirect, please.

3 REDIRECT EXAMINATION

4 BY MR. LEE:

5 Q Mr. Roberson, this witness who was living next door
6 who could have allegedly helped, to your recollection, she
7 didn't testify today, did she? I believe we had the
8 sister, the mother, the stepmother, and the applicant
9 testified, to the best of my recollection. Do you recall
10 the next-door neighbor who supposedly could have provided
11 an alibi to you, do you recall her testifying today?

12 A I believe that's what they're saying, the
13 African-American lady testified to that.

14 Q Did she or did she not testify to being the one that
15 the victim recanted to?

16 A I heard that today for the first time.

17 Q Okay. So you don't recall hearing the next-door
18 neighbor saying: "I was outside and saw him today"?

19 A I never talked to the next-door neighbor.

20 Q No, but today did you hear that testimony come out?

21 A I think if that --

22 Q I'll move on.

23 A Okay.

24 THE COURT: Just for the record, Ms. Mitchell,
25 the lady sitting in the back, the African-American lady,

1 as referenced by Counsel, testified that she heard the
2 victim alleged say that it's not true. And that's what I
3 have got in my notes. There's not been any testimony that
4 I have from anybody else that indicates that they were an
5 alibi witness.

6 MR. LEE: I'll move on. I apologize.

7 BY MR. LEE:

8 Q And just for the sake of repeating, I guess, the
9 victim never recanted to you beforehand, before the plea,
10 correct?

11 A Never were able to talk to the victim because her
12 grandparents took custody of her and they protected her.

13 Q Did anyone even provide a written statement where the
14 victim recanted?

15 A Not to my knowledge.

16 Q Okay. The DNA analysis that was done, I believe
17 that -- and correct me if I'm wrong -- I believe that
18 covered the pubic hair swab, the blood analysis, the
19 boxers that were found at the foot of the bed?

20 A Right.

21 Q The fitted sheets where there was DNA found, correct?

22 A Right.

23 Q And the fitted sheets that were on the victim's bed
24 where there was DNA found of the applicant, correct?

25 A Yes.

1 Q And then there was this sheet that may or may not
2 have shown trauma, no one can really read it; is that
3 correct?

4 A You mean this?

5 Q Yes. So that's what the DNA analysis covered, or
6 that's what was covered by SLED, correct?

7 A Yes, that's what was given to me in the package of
8 discovery that had to do with the DNA, as well as the
9 information that was collected from the Lexington County
10 Hospital that was placed in evidence that SLED analyzed to
11 come to this conclusion.

12 Q My mistake. So it wasn't just SLED, it was all of
13 the information?

14 A Yes.

15 Q And you provided that same information, all of it, to
16 your DNA expert who you hired?

17 A Yes, I did.

18 Q Okay. And his response to you was that the
19 information that he saw would just confirm the State's
20 case?

21 A Based on the SLED analysis and the math that produced
22 these results, if he took the witness stand, he would
23 confirm SLED's results.

24 Q And you discussed this certainly with the applicant?

25 A I brought him to my office, put him on the phone and

1 let him talk to the expert.

2 Q And then ultimately after hearing all these
3 discussions, the applicant decided to plead guilty?

4 A After some time and some to-and-fro and that kind of
5 thing, yes.

6 MR. LEE: No further questions, Your Honor.

7 Thank you.

8 MR. BUNCE: Nothing further, Your Honor.

9 THE COURT: Thank you, Mr. Roberson.

10 Anything further, Mr. Lee?

11 MR. LEE: That would be all the State's
12 witnesses, Your Honor.

13 THE COURT: Okay. Thank you, gentlemen. I
14 appreciate both sides being very well prepared.

15 I'm going to give you my decision on your
16 request to allow me to allow you to get the victim's
17 testimony by affidavit by the afternoon. That leaves your
18 briefing me in ten days, depending on what I rule on that,
19 about the admissibility of these other statements. Okay,
20 sir?

21 I want you to look -- in doing that, I want you
22 to specifically address 801(d), the statements which are
23 not hearsay --

24 MR. BUNCE: 801(d)?

25 THE COURT: Yes, sir. Also Rule 613, I believe.

1 Let me see. And 613. And anything else, I want you to
2 address those and why that those statements would be
3 admissible, okay, sir?

4 MR. BUNCE: I will do that, Your Honor.

5 THE COURT: Thank you for your preparation.

6 MR. BUNCE: Thank you, Your Honor.

7 THE COURT: And I will get in touch with the
8 attorneys by weeks-end and talk about my ruling on the
9 victim.

10 Thank you.

11 (The proceedings were concluded.)

12 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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4 CERTIFICATE OF REPORTER5
6
7
8 STATE OF SOUTH CAROLINA)9
10 COUNTY OF LEXINGTON)

11 I, CAROL M. THUEME, RPR, Official Court Reporter for
12 the 11th Judicial Circuit of the State of South Carolina,
13 do hereby certify that the foregoing is a true, accurate
14 and complete Transcript of Record of the proceedings had
15 and evidence introduced in the trial of the captioned
16 case, relative to appeal, in the Court of Common Pleas for
17 Lexington County, South Carolina, on the 3rd day of
18 February, 2010.

19 I do further certify that I am neither of kin,
20 counsel nor interest to any party hereto.

21
22 December 31st, 2010

23 
24

25 CAROL M. THUEME, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Travis J. Williams, # 321552,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT
Case No.: 2008-CP-32-0904

ORIGINAL

ORDER OF DISMISSAL

VW

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SC

2010 SEP 13 P 12:08

FILED

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed February 27, 2008. The Respondent made its return on or about May 6, 2008. An evidentiary hearing into the matter was convened on February 3, 2010, at the Lexington County Courthouse. The Applicant was present at the hearing and was represented by Brad Bunce, Esquire. The Respondent was represented by A. West Lee of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Respondent presented testimony from the Applicant's Plea Counsel, Nathaniel Roberson, Esquire. This Court also had before it a copy of the transcript from the Applicant's guilty plea proceedings, the records of the Lexington County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the Application for Post-Conviction Relief, the State's Return, and evidence presented during the hearing.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. The Applicant was

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indicted at the October 2006 term of the Lexington County Grand Jury for two counts of criminal sexual conduct with a minor-2nd degree, child 11-14 years of age (2006-GS-32-3275, -3276). Nathaniel Roberson, Esquire, represented him. On April 30, 2007, Applicant pled guilty to one count of criminal sexual conduct-2nd degree. He was sentenced by the Honorable William P. Keesley to confinement for twenty (20) years. Applicant did not appeal his conviction or sentence.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reasons:

- 1) Ineffective Assistance of Counsel
 - a. "I was not informed that I could appeal. Attorney never informed me."
 - b. "Counsel failed to investigate."
- 2) Involuntary Guilty Plea
 - a. "Coerced into pleading guilty."

Subsequently, the Applicant's attorney filed an amended application for post-conviction relief, which made the following additional claims:

- 3) Applicant's defense counsel failed to adequately investigate Applicant's case;
- 4) Counsel guaranteed Applicant that he would not receive maximum sentence;
- 5) Counsel advised Applicant that he was subject to the death penalty;
- 6) Counsel failed to discuss in good faith defenses available to the Applicant;
- 7) Counsel advised Applicant that he would refuse to call a key witness that would recant her earlier statement to investigators and refuse the accusation against the Applicant;
- 8) Applicant's plea of guilty was not knowingly and intelligently entered, inasmuch as:
 - a. Counsel failed to advise Applicant of his rights as a criminal case defendant;
 - b. Counsel affirmatively misstated the possible penalties for all of the charges he faced;
 - c. Counsel failed to advise Applicant as to how he might be sentenced at the conclusion of the plea hearing;
 - d. Counsel failed to advise Applicant that he could withdraw his plea prior to the court accepting the plea;
 - e. Counsel failed to discuss in good faith defenses available to the Applicant;
 - f. Counsel advised the Applicant that he would refuse to call a witness that would recant her earlier statement to investigators and would refute the accusation against Applicant;
 - g. Applicant would not have pled guilty if he had the true facts before him; and

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- h. Applicant would have withdrawn his plea before the court accepted the plea if his counsel had advised him that was possible;
- 9) Counsel failed to properly explain Applicant's appellate rights to him;
- 10) Counsel failed to file a timely notice of appeal when directed to do so by the Applicant.

APPLICABLE LAW

Ineffective Assistance of Counsel

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of Counsel is alleged as a ground for relief, the Applicant must prove that "Counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that Counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of Counsel. First, the Applicant must prove that Counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, Counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for Counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386

S.E.2d at 625. With respect to guilty Plea Counsel, the Applicant must show that there is a reasonable probability that, but for Counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the Applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leake, 282 S.C. 131, 318 S.E.2d 360 (1984).

An Applicant who enters a plea on the advice of Counsel may only attack the voluntary and intelligent character of the plea by showing that trial Counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial Counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial, Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of Counsel, and it will be treated as such.

Involuntary Guilty Plea

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leake, 282 S.C. 131, 318 S.E.2d 360 (1984).

The transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, [an Applicant's] right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63 (1977). Statements made during a guilty plea should be considered conclusively, unless an [Applicant] presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975) *overruled on other grounds by* U.S. v. Whitley, 759 F.2d 327 (4th Cir. 1985). This Court finds that Applicant presented no reasons to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

An Applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial, Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

SUMMARY OF TESTIMONY PRESENTED AT HEARING

Lisa Williams, Sister of Applicant

Ms. Williams testified that she lived in the same house with the Applicant at the time of the incident. She testified that she, along with the Applicant, met Counsel two or three times

before the plea and on the day of the plea. She also stated that she and Counsel spoke several times by phone. She testified that never during the course of those meetings, or during the course of her conversations with the Applicant, did the Applicant tell her he wanted to plead guilty. In fact, she stated, the idea of entering a guilty plea never came up prior to their last meeting, which she thought was to be about preparing for trial.

Ms. Williams testified that she told Counsel she would testify on the Applicant's behalf. She asserted that on the morning of the alleged incident, contrary to statements made initially which asserted that Applicant was not wearing pants when he came back in from allegedly being outside the house, that Applicant was fully dressed. She also asserted that the victim's mother would testify at a new trial that she wiped the semen on the child herself and framed the Applicant as a result of some relationship problems she and the Applicant were having.

Ms. Williams went on to testify that Counsel asked her to seek out witnesses on the Applicant's behalf and have them fill out affidavits, but added that Counsel did not explain to her what affidavits were. At any rate, she testified, she located a witness, the caretaker of the mobile home park, who would testify that she woke up to the barking of her dog, looked outside, and saw Applicant outside at the time of the alleged incident. She stated that she relayed this information to Counsel, but that he never followed up on it. Williams also testified that there were other witnesses who were also willing to testify on the Applicant's behalf, specifically alleging that a couple of said witnesses would testify that the victim herself told them that the incident did not happen. She stated that she relayed this information to Counsel as well, but again added that he did not follow up on it.

It was Williams's testimony that Counsel's attitude towards the Applicant's case had

been more cooperative until it became apparent that Applicant's family could not pay him. She stated that at that point, he became much less willing to explore possible witnesses or defenses on the Applicant's behalf. Further, she testified that on the day of the plea agreement, Counsel approached the Applicant and stated that he had worked out a plea agreement with a possible sentencing range of 0-20 years, but insisted that the Applicant would not receive a sentence of more than ten years. She stated that there were several other family members around at the time of this exchange. Finally, Williams testified that Counsel did not explain how the plea proceeding would work, or that the Applicant could seek to have another attorney appointed if he wished to proceed to trial.

Crystal Hoover, Victim's Mother

Crystal Hoover, the victim's mother, also testified at the PCR Hearing. It was her testimony that she was the person who called the police on the Applicant, went to two separate police stations to file reports, and took her child to the hospital to do a rape kit, but that she was doing so only in an attempt to frame the Applicant. She testified that she wiped the semen on the child, and that she informed Counsel of this. Hoover further testified that she also met with Counsel on several occasions, adding that she also gave Counsel information regarding alibi witnesses. She also stated that the statement she initially gave was correct.

Tina Mitchell

Tina Mitchell testified that the alleged victim in the case told her on three different occasions that the incident did not occur. She further testified that she was never contacted by Counsel regarding the case.

Sara Williams, Step-Mother

Sara Williams testified that at the conclusion of the guilty plea proceedings, the Applicant and his family were desirous of an appeal. She stated that Counsel's response was one of shock. She admitted that she could not recall if Applicant said anything about wanting an appeal.

Williams also testified that on the day of the plea hearing, Counsel informed them there was an plea deal where the State would drop one charge and the Applicant would receive a sentence in the range of 0-20 years. She admitted, however, that Counsel did not guarantee anything. She stated that the family then went to breakfast, discussed the matter, and came back and agreed to enter a guilty plea.

Williams further testified that the victim's mother told her the whole thing was made up, and added that she relayed this information to Counsel. She went on to testify that Counsel was originally more willing to assist them, but when it became apparent that the family could not pay for his services, his attitude towards the Applicant's case changed.

Travis Williams, Applicant

Applicant testified that Counsel only met with him three times prior to entry of the guilty plea. He testified that Counsel's attitude towards his case changed when it became apparent Applicant's family could not pay him. He testified that when they could not pay Counsel, they asked the court to appoint him, but added that after he was appointed he was not as willing to assist them.

Applicant testified that there were several witnesses who would have testified on his behalf at trial, but that Counsel did not contact them. He also testified that the alleged victim was in a relationship with another boy who was living in the same house, and that any sexual

relations that were occurring were between them. He went on to say that Counsel did not discuss defenses that were available to him.

Applicant further testified that he did not want to plead, but that Counsel told him that he had no defense and if he did not plead he would receive a sentence of sixty years to life in prison. He testified that Counsel subsequently approached him on the day of the plea hearing and said he had secured a plea offer where the State would drop one charge, and give him a sentence somewhere between zero and twenty years. He asserted Counsel told him he would not receive more than ten years. Applicant also stated there was an earlier plea offer of one to ten years that was not accepted.

Applicant went on to testify that Counsel did not explain to him how the plea hearing would work. He testified he was not told he could withdraw his plea prior to the court accepting it. He also testified that the plea deal presented to the court was not accurate. He then stated that he told Counsel he wanted to appeal his guilty plea.

Nathaniel Roberson, Counsel

Counsel testified that one of the Applicant's relatives first contacted him about the case when he was in magistrate's court for bond hearings one morning. He stated that Applicant's relative saw him there and asked if he could take the case. He testified that he did not agree to assume representation at that point, but that he agreed to meet with the family to discuss the possibility of representation. He asserted that in that meeting he informed them of what his rate would be, and that they subsequently informed him they could not pay. Therefore, he testified, this was not a situation where he started to represent the Applicant, and then the Applicant could not pay; instead, this was a situation where he never undertook representation of the Applicant.

Counsel testified that Applicant's relatives subsequently approached the administrative judge for Lexington County, informed him that they could not afford to retain Counsel, and specifically asked if the court would appoint Mr. Roberson as counsel. Counsel further asserted that being appointed versus being retained did not change his attitude towards the case.

Counsel testified that he met with the Applicant and his family on several occasions, adding that he also had numerous phone conversations with the Applicant's family regarding the case. He testified that during those meetings he reviewed the charges, the elements of and possible punishments associated with those charges, and the Applicant's constitutional rights. He stated that they went over possible witnesses, possible defenses, and the State's evidence in the case. Further, Counsel testified that he went over the Applicant's right to appeal on at least three different occasions.

Counsel testified that the State's evidence in the case consisted of statements from both the victim and the victim's mother, semen and pubic hair found on the victim's stomach, which was a 1 in 250,000 match to the Applicant, DNA found on the victim's bedding, which was a 1 in 17 quintillion match to the Applicant, the Applicant's boxers, which were found at the foot of the Applicant's bed, and so on. He testified that the State did a pubic hair swab, a blood analysis, and a DNA analysis on DNA found on the boxers and the fitted sheets from the victim's bed. Moreover, Counsel testified that he had an independent DNA analysis done, which basically corroborated the findings of the State's analysis. He testified that he reviewed this evidence with the Applicant, and that as a result of this review came to the opinion that the State would likely be able to prove the Applicant's guilty beyond a reasonable doubt. He further testified that he relayed this information to the Applicant.

Counsel testified that Applicant and member's of the Applicant's family told him about alibi witnesses prior to the plea date, but that they either could not or would not provide him with specific information, such as addresses or telephone numbers, by which he could contact them. Counsel stated that he asked Applicant's family to obtain affidavits from these witnesses, since he had no way to contact them, adding that he even provided blank affidavits to Applicant's family to fill out. However, none were returned. Counsel further testified that he was never informed prior to the plea hearing that the victim would recant her accusation.

Counsel testified that after review of the evidence and numerous conversations with the Applicant and his family, he felt like a guilty plea would be in the Applicant's best interests. He testified that he engaged in plea negotiations with the solicitor on the Applicant's behalf. He stated that the State agreed to drop one of the charges and make no recommendation with regard to a sentence. Counsel testified that he relayed this information to the Applicant. Counsel further testified that he never told the Applicant he would only receive a sentence of ten years, insisting that he was clear with the Applicant in telling him he could receive up to twenty years. Counsel further testified that he never told the Applicant if he went to trial he would receive from sixty years to life in prison, nor did he ever tell Applicant he would be subject to the death penalty. Moreover, Counsel testified that he never pressured or coerced the Applicant into pleading guilty, adding that the choice to enter a guilty plea was the Applicant's entirely. He stated that he could not recall ever telling the Applicant he could withdraw his guilty plea prior to the court accepting it. Finally, Counsel testified that Applicant did not ask him to file an appeal.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-23-80 (2003).

Involuntary Guilty Plea

With respect to this claim, this Court finds that the Applicant has failed to meet his burden of proof. This Court finds Counsel's testimony that he fully informed the Applicant of the charges, the possible punishments, his constitutional rights, and the consequences of entering a guilty plea to be credible, while simultaneously finding that Applicant's testimony and the Applicant's family's testimony on these issues is not credible. This finding is made based upon a full review of the record, which includes the guilty plea transcript.

At the guilty plea hearing, the Applicant testified that he was not under the influence of any medicine, alcohol or drugs, and that he did not have any physical or mental problems that affected his thinking. (Tr. p. 4, lines 7-13). Further, the Applicant testified that he was clear headed and knew what he was doing. (Tr. p. 4, lines 14-16).

The plea court explained to the Applicant his constitutional rights, including the right to a jury trial, and further explained that by entering a guilty plea the Applicant was giving up his constitutional rights. The plea court also informed the Applicant that by entering a guilty plea he waived any defenses he may have had, any challenges to the evidence, and moreover admitted his guilt. The Applicant replied that he understood. (Tr. p. 4, line 17 – p. 5, line 17).

The Applicant stated that he did not want a jury trial. (Tr. p. 5, lines 18-19). The Solicitor read the plea agreement into the record, stating that it was a most serious offense, an 85% offense, which would require mandatory sex-offender registration. (Tr. p. 5, line 21 – p. 6, line 5). The Applicant admitted he was guilty of the offense. (Tr. p. 9, line 24 – p. 10, line 1). The Applicant stated that no one had forced, threatened, or coerced him in any way to get him to plead guilty. (Tr. p. 10, lines 2-4).

The plea court explained to the Applicant that any plea bargains must be put on the record or they would be lost, and the Applicant replied that he understood. The Applicant then testified that other than what was put on the record, no one had promised him anything in order to secure his guilty plea. (Tr. p. 10, lines 11-17). Applicant testified that he was fully satisfied with his attorney, that there was nothing else he wanted his attorney to do, that there were no witnesses he wanted his attorney to speak with, or any investigation that he wanted his attorney to do. (Tr. p. 10, line 18 – p. 11, line 10).

The plea court explained to the Applicant that the charge carried up to twenty years in prison, and the Applicant replied that he understood. (Tr. p. 11, lines 14-17). Applicant testified that he understood everything the plea court told him, that he was certain he wanted to give up his rights and plead guilty, and that he made the decision of his own free will. (Tr. p. 13, lines 17-25). Finally, Applicant again asserted that he was pleading guilty because he was, in fact, guilty of the charge. (Tr. p. 14, lines 1-3).

Based upon a full review of the testimony presented at the PCR Hearing and the record before this Court, this Court finds that there is ample evidence that the Applicant's guilty plea

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was knowingly, intelligently, freely and voluntarily entered. Accordingly, this charge is denied and dismissed.

Failure to Investigate

With respect to this claim, this Court again finds that the Applicant has failed to meet his burden of proof. This Court finds that Counsel's testimony that he met with the Applicant several times to discuss the case, talked with the Applicant's family, sought out witnesses on the Applicant's behalf, obtained discovery in the case and discussed possible defenses, and had an independent DNA analysis done to be credible. Moreover, this Court finds Applicant's testimony that Counsel did not perform an adequate investigation, and that if he did an investigation he would have found several witnesses who would testify to the Applicant's innocence, not to be credible. Therefore, this Court finds that Applicant has not shown that Counsel provided ineffective assistance. Further, this Court notes that the victim in the case did not testify at the PCR Hearing, so statements made by other witnesses regarding her desire to recant her accusation are speculative at best. In addition, there was ample evidence of the Applicant's guilt in the case, and this Court has also found the Applicant's guilty plea to be freely and voluntarily entered. As such, even if the Applicant could prove that Counsel provided ineffective assistance, Applicant would be unable to show resulting prejudice. Here, neither prong of the Strickland analysis is satisfied. Accordingly, this allegation is denied and dismissed.

Failure to Discuss Viable Defenses

With respect to this claim, this Court again finds that the Applicant has failed to meet his burden of proof. This Court finds Counsel's testimony that he discussed possible defenses with the Applicant and that it was the Applicant's position that he did commit the crime and was in

fact outside at the time to be credible, while simultaneously finding the Applicant's testimony on this issue not to be credible. As such, this Court finds that the Applicant is unable to show ineffective assistance of counsel. Furthermore, this Court finds that there was ample evidence of the Applicant's guilt and the fact that the Applicant's guilty plea was knowingly and voluntarily entered. Therefore, even if the Applicant could show ineffective assistance of Counsel, he could not show resulting prejudice. Accordingly, this allegation is denied and dismissed.

Counsel's 'Guarantee' that Applicant Would Not Receive Maximum Sentence

Applicant also alleged that Counsel guaranteed him that he would not receive the maximum sentence of twenty years in persuading Applicant to plead guilty. With respect to this claim, this Court finds that the Applicant has again failed to meet his burden of proof. This Court finds that Counsel's testimony that he fully apprised Applicant of the possible sentences associated with the guilty plea, including a possible sentencing range of zero to twenty years, to be credible, while simultaneously finding Applicant's testimony on the issue not to be credible. As such, this Court finds that Applicant is unable to show Counsel provided him ineffective assistance. However, even if Applicant could show that Counsel advised him incorrectly that he would not receive the maximum possible sentence, this Court notes that the plea court informed the Applicant that he could potentially be sentenced up to twenty years. Therefore, even if Counsel failed to tell Applicant, Applicant knew. As such, he would be unable to show resulting prejudice. Accordingly, this claim is denied and dismissed.

Counsel Incorrectly Advised Applicant That He Would be Subject to Death Penalty if He

Proceeded to Trial

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This Court finds that this claim is without merit. This Court finds that Counsel's testimony that he never instructed the Applicant that he would be subject to the death penalty to be credible, while finding that the Applicant's testimony on the issue is not credible. This Court notes that the Applicant was indicted on two charges of Criminal Sexual Conduct in the Second Degree, the maximum sentence for which is twenty years. If the Applicant had gone to trial on both of the charges, the longest sentence he could have received would have been forty years if the sentences were run consecutively. Also, the Applicant had no prior criminal record. Therefore, it is highly unlikely that Counsel ever thought that the Applicant faced exposure to the death penalty. Nor does it stand to reason that Counsel so instructed the Applicant. This Court finds that the Applicant has not proven that Counsel provided ineffective assistance. Accordingly, this claim is denied and dismissed.

Counsel's 'Refusal' to Call Key Witness

With respect to this claim, this Court again finds that the Applicant has failed to meet his burden of proof. The Applicant testified that Counsel blatantly refused to call the victim's mother as a witness if they proceeded to trial. Applicant testified at the PCR Hearing, as did the victim's mother, that she was trying to frame the Applicant and that the incident did not occur. Applicant testified that when he presented this information to Counsel, Counsel stated that he would not call the victim's mother to the witness stand.

Counsel testified that this was not the case. He testified that when the 'set-up' story was first presented to him, he thought it sounded rather unbelievable. He testified that he relayed his feelings towards the story to the Applicant and the Applicant's family. He added that he did not refuse to call her to the stand, but was unsure of the story's veracity and asked the victim's

mother to fill out a notarized affidavit saying the same before he would put her on the stand. He testified that this was never done.

This Court finds Counsel's testimony on the issue to be credible, while simultaneously finding that the Applicant's testimony on the issue is not credible. This Court also finds that the victim's mother's testimony on this issue is not credible, as it is in direct contradiction to her prior statement to authorities. This Court notes that Counsel simply tried to take steps to assure the veracity of the victim's mother's recantation, and that his requests were not heeded. Therefore, Applicant is unable to show that Counsel provided him ineffective assistance. Moreover, this Court also notes that although the victim's mother testified at the PCR Hearing that she would recant her statement, the actual victim, though present in the courtroom, did not take the stand to say she would recant her statement. As such, this Court finds that Applicant would likewise be unable to show resulting prejudice. Accordingly, this claim is denied and dismissed.

Failure to Inform Applicant of Right to Appeal/Failure to File and Appeal After Being Requested

To Do So

Absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. However trial counsel has a constitutionally imposed duty to consult with his client about an appeal when there is reason to think either (1) that a rational defendant would want to appeal or (2) that the particular defendant reasonably demonstrated to counsel that he was interested in appealing. Jones v. State, 382 S.C. 589, 677 S.E.2d 20 (2009).

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With respect to this claim, this Court finds that the Applicant has again failed to meet his burden of proof. This Court finds Counsel's testimony that he informed the Applicant of his right to appeal on at least three different occasions to be credible, while simultaneously finding Applicant's testimony that he was not so informed not to be credible. Furthermore, this Court notes that the plea court informed Applicant of his right to appeal at the close of the guilty plea hearing. Therefore, this Court finds that the Applicant is unable to show ineffective assistance of Counsel for failure to inform him of his right to appeal. And even if Applicant could show he was not informed of his right to appeal, the fact that he entered a guilty plea waived all non-jurisdictional defenses. Therefore, this Court finds that it would not be obvious from the circumstances that a rational defendant would want to appeal.

With regard to the assertion that an appeal was requested, thus evidencing a reasonable desire for appeal, this Court finds Counsel's testimony that the Applicant did not request that he file an appeal to be credible, while finding the Applicant's testimony on the issue not to be credible. Therefore, this Court finds that Applicant has neither shown ineffective assistance of counsel nor resulting prejudice. Accordingly, this allegation is denied and dismissed.

Failure to Inform Applicant He Could Withdraw his Guilty Plea Prior to the Court Accepting It

With respect to this charge, this Court again finds that the Applicant is unable to meet his burden of proof. Applicant testified that if he had known he could withdraw his guilty plea prior to it being accepted by the court, he would have done so. Counsel testified that he could not specifically remember telling the Applicant he could withdraw his guilty plea. However, even assuming that Counsel provided ineffective assistance in failing to explain this point to the Applicant, this Court finds that there was ample evidence of the Applicant's guilt, and has

previously found that the Applicant's guilty plea was knowingly, intelligently, freely and voluntarily entered. As such, there is little reason to believe that the Applicant would have decided to withdraw his guilty plea, proceed to trial, and abandoned the benefit of his bargain. Therefore, this Court finds that even if the Applicant could prove ineffective assistance of counsel, he cannot show resulting prejudice. Accordingly, this allegation is denied and dismissed.

All Other Claims

Except as discussed above, this Court finds that the Applicant affirmatively waived the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 413 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

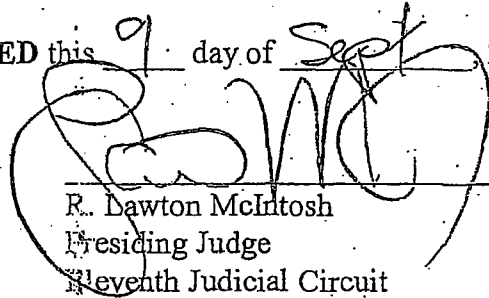
This Court advises Applicant that he must file and serve a notice of appeal within thirty (30)

days from the receipt by Counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate Counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the Applicant wishes to seek appellate review, PCR Counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 227 for appropriate procedures for appeal.

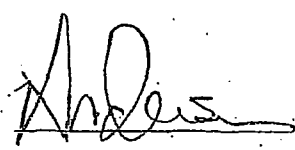
IT IS THEREFORE ORDERED:

- 1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
- 2. The Applicant must be remanded to the custody of the Respondent.

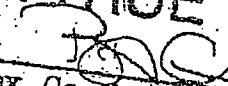
AND IT IS SO ORDERED this 9 day of Sept, 2010.



R. Dawton McIntosh
Presiding Judge
Eleventh Judicial Circuit

 South Carolina

FILED
2009 SEP 13 P 12:49
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

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Lex. Co. C.C.C.P., G.B. & P.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Criminal Sexual Conduct with Minor
2nd Degree
Child 11 to 14 years of age

§16-3-655(B)

At a Court of General Sessions, convened on OCTOBER 2006, the Grand Jurors of Lexington County present upon their oath:

That Travis Justin Williams did in Lexington County on or about June 28, 2006, commit a sexual battery upon and with the body of the victim, [REDACTED] being a child between the ages of eleven (11) and fourteen (14) years of age, to wit: the defendant did insert his penis into the victim's vagina and had sexual intercourse without the victim's consent, in violation of § 16-3-655 (B) [formerly section 16-3-655(2) of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

LCSD
Baumgardner, Steve

DOCKET NO. 2006-GS-32-3276

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

October TERM 2006

THE STATE

vs.

Travis Justin Williams

A-2006-32-01909

10/2/2006 4:01 PM

ARREST WARRANT NUMBER

J051311

TRUE BILL

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 16 Oct 06

VERDICT

Foreperson of Petit Jury

Date:

CDR# 0396

Indictment for

Criminal Sexual Conduct with Minor
2nd Degree
Child 11 to 14 years of age

§16-3-655(B)

DONALD V. MYERS, SOLICITOR

*Nolle prosequere in exchange for
plea to other charges
30 April 07
L. Wedel*

ASSISTANT SOLICITOR

WITNESSES

LCSD
Baumgardner, Steve

DOCKET NO. 2006-GS-32- 3275

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

October TERM 2006

THE STATE
vs.
Travis Justin Williams

A-2006-32-01909

10/2/2006 3:57 PM

ARREST WARRANT NUMBER

J051310

TRUE BILL

ACTION OF GRAND JURY

Sam A. Lucas

Foreperson of Grand Jury

Date: *10/2/06*

VERDICT

CDR# 0396

Indictment for

Criminal Sexual Conduct with Minor
2nd Degree
Child 11 to 14 years of age

§16-3-655(B)

DONALD V. MYERS, SOLICITOR

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Criminal Sexual Conduct with Minor
2nd Degree
Child 11 to 14 years of age

§16-3-655(B)

At a Court of General Sessions, convened on OCTOBER 2006, the Grand Jurors of Lexington County present upon their oath:

That Travis Justin Williams did in Lexington County on or about June 28, 2006, commit a sexual battery upon and with the body of the victim, [REDACTED] being a child between the ages of eleven (11) and fourteen (14) years of age, to wit: the defendant did insert his penis into the victim's vagina and had sexual intercourse without the victim's consent, in violation of § 16-3-655 (B) [formerly section 16-3-655(2) of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

DOCKET NO. 2006 -GS-32- 3276

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

October TERM 2006

THE STATE

vs.

Travis Justin Williams

A-2006-32-01909

10/2/2006 4:01 PM

ARREST WARRANT NUMBER

J051311

TRUE BILL

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 16 Oct 06

VERDICT

Foreperson of Petit Jury

Date:

CDR# 0396

Indictment for

Criminal Sexual Conduct with Minor

2nd Degree

Child 11 to 14 years of age

§16-3-655(B)

DONALD V. MYERS, SOLICITOR

*Nulla proce in exchange for
plea to other charge*

30 April 07

P. Wadell

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON).

INDICTMENT FOR
Criminal Sexual Conduct with Minor
2nd Degree
Child 11 to 14 years of age

§16-3-655(B)

At a Court of General Sessions, convened on OCTOBER 2006, the Grand Jurors of Lexington County present upon their oath:

That Travis Justin Williams did in Lexington County on or about July 11, 2006, commit a sexual battery upon and with the body of the victim, [REDACTED] being a child between the ages of eleven (11) and fourteen (14) years of age, to wit: the defendant did insert his penis into the victim's vagina and had sexual intercourse without the victim's consent, in violation of § 16-3-655 (B) [formerly section 16-3-655(2) of the Code of Laws of South Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

LCSD
Baumgardner, Steve

DOCKET NO. 2006 -GS-32- 3275

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

October TERM 2006

THE STATE

vs.

Travis Justin Williams

A-2006-32-01909

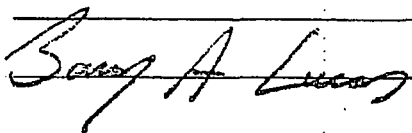
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ARREST WARRANT NUMBER

J051310

TRUE BILL

ACTION OF GRAND JURY



Foreperson of Grand Jury

Date: 10/2/06

VERDICT

Foreperson of Petit Jury

Date:

CDR# 0396

Indictment for

Criminal Sexual Conduct with Minor
2nd Degree
Child 11 to 14 years of age

§16-3-655(B)

DONALD V. MYERS, SOLICITOR